



Sen. Terry Link

**Filed: 1/10/2005**

09300HB0805sam004

LRB093 05617 WGH 54485 a

1 AMENDMENT TO HOUSE BILL 805

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 805, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Workers' Compensation Act is amended by  
6 changing Sections 4, 8, 10, and 19 and by adding Sections 8.1,  
7 8.2, and 8.3 as follows:

8 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

9 Sec. 4. (a) Any employer, including but not limited to  
10 general contractors and their subcontractors, who shall come  
11 within the provisions of Section 3 of this Act, and any other  
12 employer who shall elect to provide and pay the compensation  
13 provided for in this Act shall:

14 (1) File with the Commission annually an application  
15 for approval as a self-insurer which shall include a  
16 current financial statement, and annually, thereafter, an  
17 application for renewal of self-insurance, which shall  
18 include a current financial statement. Said application  
19 and financial statement shall be signed and sworn to by the  
20 president or vice president and secretary or assistant  
21 secretary of the employer if it be a corporation, or by all  
22 of the partners, if it be a copartnership, or by the owner  
23 if it be neither a copartnership nor a corporation. All  
24 initial applications and all applications for renewal of

1 self-insurance must be submitted at least 60 days prior to  
2 the requested effective date of self-insurance. An  
3 employer may elect to provide and pay compensation as  
4 provided for in this Act as a member of a group workers'  
5 compensation pool under Article V 3/4 of the Illinois  
6 Insurance Code. If an employer becomes a member of a group  
7 workers' compensation pool, the employer shall not be  
8 relieved of any obligations imposed by this Act.

9 If the sworn application and financial statement of any  
10 such employer does not satisfy the Commission of the  
11 financial ability of the employer who has filed it, the  
12 Commission shall require such employer to,

13 (2) Furnish security, indemnity or a bond guaranteeing  
14 the payment by the employer of the compensation provided  
15 for in this Act, provided that any such employer whose  
16 application and financial statement shall not have  
17 satisfied the commission of his or her financial ability  
18 and who shall have secured his liability in part by excess  
19 liability insurance shall be required to furnish to the  
20 Commission security, indemnity or bond guaranteeing his or  
21 her payment up to the effective limits of the excess  
22 coverage, or

23 (3) Insure his entire liability to pay such  
24 compensation in some insurance carrier authorized,  
25 licensed, or permitted to do such insurance business in  
26 this State. Every policy of an insurance carrier, insuring  
27 the payment of compensation under this Act shall cover all  
28 the employees and the entire compensation liability of the  
29 insured: Provided, however, that any employer may insure  
30 his or her compensation liability with 2 or more insurance  
31 carriers or may insure a part and qualify under subsection  
32 1, 2, or 4 for the remainder of his or her liability to pay  
33 such compensation, subject to the following two  
34 provisions:

1           Firstly, the entire compensation liability of the  
2 employer to employees working at or from one location  
3 shall be insured in one such insurance carrier or shall  
4 be self-insured, and

5           Secondly, the employer shall submit evidence  
6 satisfactorily to the Commission that his or her entire  
7 liability for the compensation provided for in this Act  
8 will be secured. Any provisions in any policy, or in  
9 any endorsement attached thereto, attempting to limit  
10 or modify in any way, the liability of the insurance  
11 carriers issuing the same except as otherwise provided  
12 herein shall be wholly void.

13           Nothing herein contained shall apply to policies of  
14 excess liability carriage secured by employers who have  
15 been approved by the Commission as self-insurers, or

16           (4) Make some other provision, satisfactory to the  
17 Commission, for the securing of the payment of compensation  
18 provided for in this Act, and

19           (5) Upon becoming subject to this Act and thereafter as  
20 often as the Commission may in writing demand, file with  
21 the Commission in form prescribed by it evidence of his or  
22 her compliance with the provision of this Section.

23           (a-1) Regardless of its state of domicile or its principal  
24 place of business, an employer shall make payments to its  
25 insurance carrier or group self-insurance fund, where  
26 applicable, based upon the premium rates of the situs where the  
27 work or project is located in Illinois if:

28           (A) the employer is engaged primarily in the building  
29 and construction industry; and

30           (B) subdivision (a)(3) of this Section applies to the  
31 employer or the employer is a member of a group  
32 self-insurance plan as defined in subsection (1) of Section  
33 4a.

34           The Illinois Workers' Compensation Commission shall impose

1 a penalty upon an employer for violation of this subsection  
2 (a-1) if:

3 (i) the employer is given an opportunity at a hearing  
4 to present evidence of its compliance with this subsection  
5 (a-1); and

6 (ii) after the hearing, the Commission finds that the  
7 employer failed to make payments upon the premium rates of  
8 the situs where the work or project is located in Illinois.

9 The penalty shall not exceed \$1,000 for each day of work  
10 for which the employer failed to make payments upon the premium  
11 rates of the situs where the work or project is located in  
12 Illinois, but the total penalty shall not exceed \$50,000 for  
13 each project or each contract under which the work was  
14 performed.

15 Any penalty under this subsection (a-1) must be imposed not  
16 later than one year after the expiration of the applicable  
17 limitation period specified in subsection (d) of Section 6 of  
18 this Act. Penalties imposed under this subsection (a-1) shall  
19 be deposited into the Illinois Workers' Compensation  
20 Commission Operations Fund, a special fund that is created in  
21 the State treasury. Subject to appropriation, moneys in the  
22 Fund shall be used solely for the operations of the Illinois  
23 Workers' Compensation Commission.

24 (b) The sworn application and financial statement, or  
25 security, indemnity or bond, or amount of insurance, or other  
26 provisions, filed, furnished, carried, or made by the employer,  
27 as the case may be, shall be subject to the approval of the  
28 Commission.

29 Deposits under escrow agreements shall be cash, negotiable  
30 United States government bonds or negotiable general  
31 obligation bonds of the State of Illinois. Such cash or bonds  
32 shall be deposited in escrow with any State or National Bank or  
33 Trust Company having trust authority in the State of Illinois.

34 Upon the approval of the sworn application and financial

1 statement, security, indemnity or bond or amount of insurance,  
2 filed, furnished or carried, as the case may be, the Commission  
3 shall send to the employer written notice of its approval  
4 thereof. The certificate of compliance by the employer with the  
5 provisions of subparagraphs (2) and (3) of paragraph (a) of  
6 this Section shall be delivered by the insurance carrier to the  
7 Illinois Workers' Compensation Commission within five days  
8 after the effective date of the policy so certified. The  
9 insurance so certified shall cover all compensation liability  
10 occurring during the time that the insurance is in effect and  
11 no further certificate need be filed in case such insurance is  
12 renewed, extended or otherwise continued by such carrier. The  
13 insurance so certified shall not be cancelled or in the event  
14 that such insurance is not renewed, extended or otherwise  
15 continued, such insurance shall not be terminated until at  
16 least 10 days after receipt by the Illinois Workers'  
17 Compensation Commission of notice of the cancellation or  
18 termination of said insurance; provided, however, that if the  
19 employer has secured insurance from another insurance carrier,  
20 or has otherwise secured the payment of compensation in  
21 accordance with this Section, and such insurance or other  
22 security becomes effective prior to the expiration of the 10  
23 days, cancellation or termination may, at the option of the  
24 insurance carrier indicated in such notice, be effective as of  
25 the effective date of such other insurance or security.

26 (c) Whenever the Commission shall find that any  
27 corporation, company, association, aggregation of individuals,  
28 reciprocal or interinsurers exchange, or other insurer  
29 effecting workers' compensation insurance in this State shall  
30 be insolvent, financially unsound, or unable to fully meet all  
31 payments and liabilities assumed or to be assumed for  
32 compensation insurance in this State, or shall practice a  
33 policy of delay or unfairness toward employees in the  
34 adjustment, settlement, or payment of benefits due such

1 employees, the Commission may after reasonable notice and  
2 hearing order and direct that such corporation, company,  
3 association, aggregation of individuals, reciprocal or  
4 interinsurers exchange, or insurer, shall from and after a date  
5 fixed in such order discontinue the writing of any such  
6 workers' compensation insurance in this State. Subject to such  
7 modification of the order as the Commission may later make on  
8 review of the order, as herein provided, it shall thereupon be  
9 unlawful for any such corporation, company, association,  
10 aggregation of individuals, reciprocal or interinsurers  
11 exchange, or insurer to effect any workers' compensation  
12 insurance in this State. A copy of the order shall be served  
13 upon the Director of Insurance by registered mail. Whenever the  
14 Commission finds that any service or adjustment company used or  
15 employed by a self-insured employer or by an insurance carrier  
16 to process, adjust, investigate, compromise or otherwise  
17 handle claims under this Act, has practiced or is practicing a  
18 policy of delay or unfairness toward employees in the  
19 adjustment, settlement or payment of benefits due such  
20 employees, the Commission may after reasonable notice and  
21 hearing order and direct that such service or adjustment  
22 company shall from and after a date fixed in such order be  
23 prohibited from processing, adjusting, investigating,  
24 compromising or otherwise handling claims under this Act.

25 Whenever the Commission finds that any self-insured  
26 employer has practiced or is practicing delay or unfairness  
27 toward employees in the adjustment, settlement or payment of  
28 benefits due such employees, the Commission may, after  
29 reasonable notice and hearing, order and direct that after a  
30 date fixed in the order such self-insured employer shall be  
31 disqualified to operate as a self-insurer and shall be required  
32 to insure his entire liability to pay compensation in some  
33 insurance carrier authorized, licensed and permitted to do such  
34 insurance business in this State, as provided in subparagraph 3

1 of paragraph (a) of this Section.

2 All orders made by the Commission under this Section shall  
3 be subject to review by the courts, said review to be taken in  
4 the same manner and within the same time as provided by Section  
5 19 of this Act for review of awards and decisions of the  
6 Commission, upon the party seeking the review filing with the  
7 clerk of the court to which said review is taken a bond in an  
8 amount to be fixed and approved by the court to which the  
9 review is taken, conditioned upon the payment of all  
10 compensation awarded against the person taking said review  
11 pending a decision thereof and further conditioned upon such  
12 other obligations as the court may impose. Upon the review the  
13 Circuit Court shall have power to review all questions of fact  
14 as well as of law. The penalty hereinafter provided for in this  
15 paragraph shall not attach and shall not begin to run until the  
16 final determination of the order of the Commission.

17 (d) Whenever the Commission determines an employer has  
18 failed to provide coverage as required by paragraph (a) of this  
19 Section, the failure shall be deemed an immediate serious  
20 danger to public health, safety, and welfare sufficient to  
21 justify service by the Commission of a work-stop order on such  
22 employer, requiring the cessation of all business operations of  
23 such employer at the place of employment or job site. Any law  
24 enforcement agency in the State shall, at the request of the  
25 Commission, render any assistance necessary to carry out the  
26 provisions of this Section, including, but not limited to,  
27 preventing any employee of such employer from remaining at a  
28 place of employment or job site after a work-stop order has  
29 taken effect.

30 Any individual employer, corporate officer or director of a  
31 corporate employer, partner of an employer partnership, or  
32 member of an employer limited liability company who knowingly  
33 fails to provide coverage as required by paragraph (a) of this  
34 Section is guilty of a Class 4 felony. Each day's violation

1 constitutes a separate offense. The State's Attorney of the  
2 county in which the violation occurred, or the Attorney  
3 General, shall bring such actions in the name of the People of  
4 the State of Illinois, or may, in addition to other remedies  
5 provided in this Section, bring an action for an injunction to  
6 restrain the violation or to enjoin the operation of any such  
7 employer.

8 Any individual employer, corporate officer or director of a  
9 corporate employer, partner of an employer partnership, or  
10 member of an employer limited liability company who negligently  
11 fails to provide coverage as required by paragraph (a) of this  
12 Section is guilty of a Class A misdemeanor. Each day's  
13 violation constitutes a separate offense. The State's Attorney  
14 of the county in which the violation occurred, or the Attorney  
15 General, shall bring such actions in the name of the people of  
16 the State of Illinois, or may, in addition to other remedies  
17 provided in this Section, bring an action for an injunction to  
18 restrain such violation or to enjoin the operation of any such  
19 employer.

20 Employers who are subject to and who fail to comply with  
21 this Section shall not be entitled to the benefits of this Act  
22 during the period of noncompliance, but shall be liable in an  
23 action under any other applicable law of this State. In the  
24 action, such employer shall not avail himself or herself of the  
25 defenses of assumption of risk or negligence or that the injury  
26 was due to a co-employee. In the action, proof of the injury  
27 shall constitute prima facie evidence of negligence on the part  
28 of such employer and the burden shall be on such employer to  
29 show freedom of negligence resulting in the injury. The  
30 employer shall not join any other defendant in any such civil  
31 action. Nothing in this amendatory Act of the 93rd General  
32 Assembly shall affect the employee's rights under subdivision  
33 (a)3 of Section 1 of this Act.

34 An employee of an uninsured employer, or the employee's

1 dependents in case death ensued, may, instead of proceeding  
2 against the employer in a civil action in court, file an  
3 application for adjustment of claim with the Commission in  
4 accordance with the provisions of this Act and the Commission  
5 shall hear and determine the application for adjustment of  
6 claim in the manner in which other claims are heard and  
7 determined before the Commission.

8       Upon a finding by the Commission, after reasonable notice  
9 and hearing, of the knowing and wilful failure or refusal of an  
10 employer to comply with any of the provisions of paragraph (a)  
11 of this Section or the failure or refusal of an employer,  
12 service or adjustment company, or an insurance carrier to  
13 comply with any order of the Illinois Workers' Compensation  
14 Commission pursuant to paragraph (c) of this Section  
15 disqualifying him or her to operate as a self insurer and  
16 requiring him or her to insure his or her liability, the  
17 Commission may assess a civil penalty of up to \$500 per day for  
18 each day of such failure or refusal after the effective date of  
19 this amendatory Act of 1989. The minimum penalty under this  
20 Section shall be the sum of \$10,000. Each day of such failure  
21 or refusal shall constitute a separate offense. The Commission  
22 may assess the civil penalty personally and individually  
23 against the corporate officers and directors of a corporate  
24 employer, the partners of an employer partnership, and the  
25 members of an employer limited liability company, after a  
26 finding of a knowing and willful refusal or failure of each  
27 such named corporate officer, director, partner, or member to  
28 comply with this Section. The liability for the assessed  
29 penalty shall be against the named employer first, and if the  
30 named employer fails or refuses to pay the penalty to the  
31 Commission within 30 days after the final order of the  
32 Commission, then the named corporate officers, directors,  
33 partners, or members who have been found to have knowingly and  
34 willfully refused or failed to comply with this Section shall

1 be liable for the unpaid penalty or any unpaid portion of the  
2 penalty. All penalties collected under this Section shall be  
3 deposited in the Illinois Workers' Compensation Commission  
4 Operations Fund.

5 Upon the failure or refusal of any employer, service or  
6 adjustment company or insurance carrier to comply with the  
7 provisions of this Section and with the orders of the  
8 Commission under this Section, or the order of the court on  
9 review after final adjudication, the Commission may bring a  
10 civil action to recover the amount of the penalty in Cook  
11 County or in Sangamon County in which litigation the Commission  
12 shall be represented by the Attorney General. The Commission  
13 shall send notice of its finding of non-compliance and  
14 assessment of the civil penalty to the Attorney General. It  
15 shall be the duty of the Attorney General within 30 days after  
16 receipt of the notice, to institute prosecutions and promptly  
17 prosecute all reported violations of this Section.

18 Any individual employer, corporate officer or director of a  
19 corporate employer, partner of an employer partnership, or  
20 member of an employer limited liability company who, with the  
21 intent to avoid payment of compensation under this Act to an  
22 injured employee or the employee's dependents, knowingly  
23 transfers, sells, encumbers, assigns, or in any manner disposes  
24 of, conceals, secretes, or destroys any property belonging to  
25 the employer, officer, director, partner, or member, is guilty  
26 of a Class 4 felony.

27 Penalties collected pursuant to this paragraph (d) shall be  
28 deposited upon receipt by the Commission into a special fund  
29 which shall be designated the Injured Workers Benefit Fund, of  
30 which the State Treasurer is ex-officio custodian, such special  
31 fund to be held and disbursed in accordance with this paragraph  
32 (d) for the purposes hereinafter stated in this paragraph (d),  
33 upon the final order of the Commission. The Injured Workers  
34 Benefit Fund shall be deposited the same as are State funds and

1 any interest accruing thereon shall be added thereto every 6  
2 months. The Injured Workers Benefit Fund is subject to audit  
3 the same as State funds and accounts and is protected by the  
4 general bond given by the State Treasurer. The Injured Workers  
5 Benefit Fund is considered always appropriated for the purposes  
6 of disbursements as provided in this paragraph, and shall be  
7 paid out and disbursed as herein provided and shall not at any  
8 time be appropriated or diverted to any other use or purpose.  
9 Moneys in the Injured Workers Benefit Fund shall be used only  
10 for payment of workers' compensation benefits for injured  
11 employees when the employer has failed to provide coverage as  
12 determined under this paragraph (d) and has failed to pay the  
13 benefits due to the injured employee under this paragraph (d).  
14 The Commission shall have the right to obtain reimbursement  
15 from the employer for compensation obligations paid by the  
16 Injured Workers Benefit Fund. Any such amounts obtained shall  
17 be deposited by the Commission into the Injured Workers Benefit  
18 Fund. If an injured employee or his or her personal  
19 representative receives payment from the Injured Workers  
20 Benefit Fund, the State of Illinois has the same rights under  
21 paragraph (b) of Section 5 that the employer who failed to pay  
22 the benefits due to the injured employee under this paragraph  
23 (d) would have had if the employer had paid those benefits, and  
24 any moneys recovered by the State as a result of the State's  
25 exercise of its rights under paragraph (b) of Section 5 shall  
26 be deposited into the Injured Workers Benefit Fund. The  
27 custodian of the Injured Workers Benefit Fund shall be joined  
28 with the employer as a party respondent in the application for  
29 adjustment of claim. Payment from the Injured Workers Benefit  
30 Fund to an eligible claimant at the end of the fiscal year that  
31 the award became final shall discharge the obligations of the  
32 Injured Workers Benefit Fund regarding the award entered by the  
33 Commission.

34 The Commission shall hold all final awards determined in a

1 fiscal year to be made from the Fund in that fiscal year until  
2 the end of the fiscal year, at which time the Commission shall  
3 make disbursements on a pro-rata share basis only to the extent  
4 of the available moneys in the Fund for that fiscal year.

5 (e) This Act shall not affect or disturb the continuance of  
6 any existing insurance, mutual aid, benefit, or relief  
7 association or department, whether maintained in whole or in  
8 part by the employer or whether maintained by the employees,  
9 the payment of benefits of such association or department being  
10 guaranteed by the employer or by some person, firm or  
11 corporation for him or her: Provided, the employer contributes  
12 to such association or department an amount not less than the  
13 full compensation herein provided, exclusive of the cost of the  
14 maintenance of such association or department and without any  
15 expense to the employee. This Act shall not prevent the  
16 organization and maintaining under the insurance laws of this  
17 State of any benefit or insurance company for the purpose of  
18 insuring against the compensation provided for in this Act, the  
19 expense of which is maintained by the employer. This Act shall  
20 not prevent the organization or maintaining under the insurance  
21 laws of this State of any voluntary mutual aid, benefit or  
22 relief association among employees for the payment of  
23 additional accident or sick benefits.

24 (f) No existing insurance, mutual aid, benefit or relief  
25 association or department shall, by reason of anything herein  
26 contained, be authorized to discontinue its operation without  
27 first discharging its obligations to any and all persons  
28 carrying insurance in the same or entitled to relief or  
29 benefits therein.

30 (g) Any contract, oral, written or implied, of employment  
31 providing for relief benefit, or insurance or any other device  
32 whereby the employee is required to pay any premium or premiums  
33 for insurance against the compensation provided for in this Act  
34 shall be null and void. Any employer withholding from the wages

1 of any employee any amount for the purpose of paying any such  
2 premium shall be guilty of a Class B misdemeanor.

3 In the event the employer does not pay the compensation for  
4 which he or she is liable, then an insurance company,  
5 association or insurer which may have insured such employer  
6 against such liability shall become primarily liable to pay to  
7 the employee, his or her personal representative or beneficiary  
8 the compensation required by the provisions of this Act to be  
9 paid by such employer. The insurance carrier may be made a  
10 party to the proceedings in which the employer is a party and  
11 an award may be entered jointly against the employer and the  
12 insurance carrier.

13 (h) It shall be unlawful for any employer, insurance  
14 company or service or adjustment company to interfere with,  
15 restrain or coerce an employee in any manner whatsoever in the  
16 exercise of the rights or remedies granted to him or her by  
17 this Act or to discriminate, attempt to discriminate, or  
18 threaten to discriminate against an employee in any way because  
19 of his or her exercise of the rights or remedies granted to him  
20 or her by this Act.

21 It shall be unlawful for any employer, individually or  
22 through any insurance company or service or adjustment company,  
23 to discharge or to threaten to discharge, or to refuse to  
24 rehire or recall to active service in a suitable capacity an  
25 employee because of the exercise of his or her rights or  
26 remedies granted to him or her by this Act.

27 (i) If an employer elects to obtain a life insurance policy  
28 on his employees, he may also elect to apply such benefits in  
29 satisfaction of all or a portion of the death benefits payable  
30 under this Act, in which case, the employer's compensation  
31 premium shall be reduced accordingly.

32 (j) Within 45 days of receipt of an initial application or  
33 application to renew self-insurance privileges the  
34 Self-Insurers Advisory Board shall review and submit for

1 approval by the Chairman of the Commission recommendations of  
2 disposition of all initial applications to self-insure and all  
3 applications to renew self-insurance privileges filed by  
4 private self-insurers pursuant to the provisions of this  
5 Section and Section 4a-9 of this Act. Each private self-insurer  
6 shall submit with its initial and renewal applications the  
7 application fee required by Section 4a-4 of this Act.

8 The Chairman of the Commission shall promptly act upon all  
9 initial applications and applications for renewal in full  
10 accordance with the recommendations of the Board or, should the  
11 Chairman disagree with any recommendation of disposition of the  
12 Self-Insurer's Advisory Board, he shall within 30 days of  
13 receipt of such recommendation provide to the Board in writing  
14 the reasons supporting his decision. The Chairman shall also  
15 promptly notify the employer of his decision within 15 days of  
16 receipt of the recommendation of the Board.

17 If an employer is denied a renewal of self-insurance  
18 privileges pursuant to application it shall retain said  
19 privilege for 120 days after receipt of a notice of  
20 cancellation of the privilege from the Chairman of the  
21 Commission.

22 All orders made by the Chairman under this Section shall be  
23 subject to review by the courts, such review to be taken in the  
24 same manner and within the same time as provided by subsection  
25 (f) of Section 19 of this Act for review of awards and  
26 decisions of the Commission, upon the party seeking the review  
27 filing with the clerk of the court to which such review is  
28 taken a bond in an amount to be fixed and approved by the court  
29 to which the review is taken, conditioned upon the payment of  
30 all compensation awarded against the person taking such review  
31 pending a decision thereof and further conditioned upon such  
32 other obligations as the court may impose. Upon the review the  
33 Circuit Court shall have power to review all questions of fact  
34 as well as of law.

1 (Source: P.A. 92-324, eff. 8-9-01; 93-721, eff. 1-1-05.)

2 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

3 Sec. 8. The amount of compensation which shall be paid to  
4 the employee for an accidental injury not resulting in death  
5 is:

6 (a) The employer shall provide and pay the lesser of the  
7 health care provider's actual charges or according to a fee  
8 schedule, subject to Section 8.2, for all the necessary first  
9 aid, medical and surgical services, and all necessary medical,  
10 surgical and hospital services thereafter incurred, limited,  
11 however, to that which is reasonably required to cure or  
12 relieve from the effects of the accidental injury. If the  
13 employer does not dispute payment of first aid, medical,  
14 surgical, and hospital services, the employer shall make such  
15 payment to the provider on behalf of the employee. The employer  
16 shall also pay for treatment, instruction and training  
17 necessary for the physical, mental and vocational  
18 rehabilitation of the employee, including all maintenance  
19 costs and expenses incidental thereto. If as a result of the  
20 injury the employee is unable to be self-sufficient the  
21 employer shall further pay for such maintenance or  
22 institutional care as shall be required.

23 The employee may at any time elect to secure his own  
24 physician, surgeon and hospital services at the employer's  
25 expense, or,

26 Upon agreement between the employer and the employees, or  
27 the employees' exclusive representative, and subject to the  
28 approval of the Illinois Workers' Compensation Commission, the  
29 employer shall maintain a list of physicians, to be known as a  
30 Panel of Physicians, who are accessible to the employees. The  
31 employer shall post this list in a place or places easily  
32 accessible to his employees. The employee shall have the right  
33 to make an alternative choice of physician from such Panel if

1 he is not satisfied with the physician first selected. If, due  
2 to the nature of the injury or its occurrence away from the  
3 employer's place of business, the employee is unable to make a  
4 selection from the Panel, the selection process from the Panel  
5 shall not apply. The physician selected from the Panel may  
6 arrange for any consultation, referral or other specialized  
7 medical services outside the Panel at the employer's expense.  
8 Provided that, in the event the Commission shall find that a  
9 doctor selected by the employee is rendering improper or  
10 inadequate care, the Commission may order the employee to  
11 select another doctor certified or qualified in the medical  
12 field for which treatment is required. If the employee refuses  
13 to make such change the Commission may relieve the employer of  
14 his obligation to pay the doctor's charges from the date of  
15 refusal to the date of compliance.

16 Any vocational rehabilitation counselors who provide  
17 service under this Act shall have appropriate certifications  
18 which designate the counselor as qualified to render opinions  
19 relating to vocational rehabilitation. Vocational  
20 rehabilitation may include, but is not limited to, counseling  
21 for job searches, supervising a job search program, and  
22 vocational retraining including education at an accredited  
23 learning institution. The employee or employer may petition to  
24 the Commission to decide disputes relating to vocational  
25 rehabilitation and the Commission shall resolve any such  
26 dispute, including payment of the vocational rehabilitation  
27 program by the employer.

28 The maintenance benefit shall not be less than the  
29 temporary total disability rate determined for the employee. In  
30 addition, maintenance shall include costs and expenses  
31 incidental to the vocational rehabilitation program.

32 When the employee is working light duty on a part-time  
33 basis or full-time basis and earns less than he or she would be  
34 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial  
2 disability benefits. Temporary partial disability benefits  
3 shall be equal to two-thirds of the difference between the  
4 average amount that the employee would be able to earn in the  
5 full performance of his or her duties in the occupation in  
6 which he or she was engaged at the time of accident and the net  
7 amount which he or she is earning in the modified job provided  
8 to the employee by the employer or in any other job that the  
9 employee is working.

10 Every hospital, physician, surgeon or other person  
11 rendering treatment or services in accordance with the  
12 provisions of this Section shall upon written request furnish  
13 full and complete reports thereof to, and permit their records  
14 to be copied by, the employer, the employee or his dependents,  
15 as the case may be, or any other party to any proceeding for  
16 compensation before the Commission, or their attorneys.

17 Notwithstanding the foregoing, the employer's liability to  
18 pay for such medical services selected by the employee shall be  
19 limited to:

20 (1) all first aid and emergency treatment; plus

21 (2) all medical, surgical and hospital services  
22 provided by the physician, surgeon or hospital initially  
23 chosen by the employee or by any other physician,  
24 consultant, expert, institution or other provider of  
25 services recommended by said initial service provider or  
26 any subsequent provider of medical services in the chain of  
27 referrals from said initial service provider; plus

28 (3) all medical, surgical and hospital services  
29 provided by any second physician, surgeon or hospital  
30 subsequently chosen by the employee or by any other  
31 physician, consultant, expert, institution or other  
32 provider of services recommended by said second service  
33 provider or any subsequent provider of medical services in  
34 the chain of referrals from said second service provider.

1           Thereafter the employer shall select and pay for all  
2           necessary medical, surgical and hospital treatment and the  
3           employee may not select a provider of medical services at  
4           the employer's expense unless the employer agrees to such  
5           selection. At any time the employee may obtain any medical  
6           treatment he desires at his own expense. This paragraph  
7           shall not affect the duty to pay for rehabilitation  
8           referred to above.

9           When an employer and employee so agree in writing, nothing  
10          in this Act prevents an employee whose injury or disability has  
11          been established under this Act, from relying in good faith, on  
12          treatment by prayer or spiritual means alone, in accordance  
13          with the tenets and practice of a recognized church or  
14          religious denomination, by a duly accredited practitioner  
15          thereof, and having nursing services appropriate therewith,  
16          without suffering loss or diminution of the compensation  
17          benefits under this Act. However, the employee shall submit to  
18          all physical examinations required by this Act. The cost of  
19          such treatment and nursing care shall be paid by the employee  
20          unless the employer agrees to make such payment.

21          Where the accidental injury results in the amputation of an  
22          arm, hand, leg or foot, or the enucleation of an eye, or the  
23          loss of any of the natural teeth, the employer shall furnish an  
24          artificial of any such members lost or damaged in accidental  
25          injury arising out of and in the course of employment, and  
26          shall also furnish the necessary braces in all proper and  
27          necessary cases. In cases of the loss of a member or members by  
28          amputation, the employer shall, whenever necessary, maintain  
29          in good repair, refit or replace the artificial limbs during  
30          the lifetime of the employee. Where the accidental injury  
31          accompanied by physical injury results in damage to a denture,  
32          eye glasses or contact eye lenses, or where the accidental  
33          injury results in damage to an artificial member, the employer  
34          shall replace or repair such denture, glasses, lenses, or

1 artificial member.

2 The furnishing by the employer of any such services or  
3 appliances is not an admission of liability on the part of the  
4 employer to pay compensation.

5 The furnishing of any such services or appliances or the  
6 servicing thereof by the employer is not the payment of  
7 compensation.

8 (b) If the period of temporary total incapacity for work  
9 lasts more than 3 working days, weekly compensation as  
10 hereinafter provided shall be paid beginning on the 4th day of  
11 such temporary total incapacity and continuing as long as the  
12 total temporary incapacity lasts. In cases where the temporary  
13 total incapacity for work continues for a period of 14 days or  
14 more from the day of the accident compensation shall commence  
15 on the day after the accident.

16 1. The compensation rate for temporary total  
17 incapacity under this paragraph (b) of this Section shall  
18 be equal to 66 2/3% of the employee's average weekly wage  
19 computed in accordance with Section 10, provided that it  
20 shall be not less than 66 2/3% of the sum of the Federal  
21 minimum wage under the Fair Labor Standards Act, or the  
22 Illinois minimum wage under the Minimum Wage Law, whichever  
23 is more, multiplied by 40 hours. This percentage rate shall  
24 be increased by 10% for each spouse and child, not to  
25 exceed 100% of the total minimum wage calculation, the  
26 ~~following amounts in the following cases:~~

27 ~~\$100.90 in case of a single person;~~

28 ~~\$105.50 in case of a married person with no~~  
29 ~~children;~~

30 ~~\$108.30 in case of one child;~~

31 ~~\$113.40 in case of 2 children;~~

32 ~~\$117.40 in case of 3 children;~~

33 ~~\$124.30 in case of 4 or more children;~~

34 nor exceed the employee's average weekly wage computed in

1 accordance with the provisions of Section 10, whichever is  
2 less.

3 2. The compensation rate in all cases other than for  
4 temporary total disability under this paragraph (b), and  
5 other than for serious and permanent disfigurement under  
6 paragraph (c) and other than for permanent partial  
7 disability under subparagraph (2) of paragraph (d) or under  
8 paragraph (e), of this Section shall be equal to 66 2/3% of  
9 the employee's average weekly wage computed in accordance  
10 with the provisions of Section 10, provided that it shall  
11 be not less than 66 2/3% of the sum of the Federal minimum  
12 wage under the Fair Labor Standards Act, or the Illinois  
13 minimum wage under the Minimum Wage Law, whichever is more,  
14 multiplied by 40 hours. This percentage rate shall be  
15 increased by 10% for each spouse and child, not to exceed  
16 100% of the total minimum wage calculation, ~~the following~~  
17 amounts in the following cases:

18 ~~\$80.90 in case of a single person;~~

19 ~~\$83.20 in case of a married person with no~~  
20 ~~children;~~

21 ~~\$86.10 in case of one child;~~

22 ~~\$88.90 in case of 2 children;~~

23 ~~\$91.80 in case of 3 children;~~

24 ~~\$96.90 in case of 4 or more children;~~

25 nor exceed the employee's average weekly wage computed in  
26 accordance with the provisions of Section 10, whichever is  
27 less.

28 2.1. The compensation rate in all cases of serious and  
29 permanent disfigurement under paragraph (c) and of  
30 permanent partial disability under subparagraph (2) of  
31 paragraph (d) or under paragraph (e) of this Section shall  
32 be equal to 66 2/3% ~~60%~~ of the employee's average weekly  
33 wage computed in accordance with the provisions of Section  
34 10, provided that it shall be not less than 66 2/3% of the

1 sum of the Federal minimum wage under the Fair Labor  
2 Standards Act, or the Illinois minimum wage under the  
3 Minimum Wage Law, whichever is more, multiplied by 40  
4 hours. This percentage rate shall be increased by 10% for  
5 each spouse and child, not to exceed 100% of the total  
6 minimum wage calculation, ~~the following amounts in the~~  
7 ~~following cases:~~

8 ~~\$80.90 in case of a single person;~~

9 ~~\$83.20 in case of a married person with no~~  
10 ~~children;~~

11 ~~\$86.10 in case of one child;~~

12 ~~\$88.90 in case of 2 children;~~

13 ~~\$91.80 in case of 3 children;~~

14 ~~\$96.90 in case of 4 or more children;~~

15 nor exceed the employee's average weekly wage computed in  
16 accordance with the provisions of Section 10, whichever is  
17 less.

18 3. As used in this Section the term "child" means a  
19 child of the employee including any child legally adopted  
20 before the accident or whom at the time of the accident the  
21 employee was under legal obligation to support or to whom  
22 the employee stood in loco parentis, and who at the time of  
23 the accident was under 18 years of age and not emancipated.  
24 The term "children" means the plural of "child".

25 4. All weekly compensation rates provided under  
26 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this  
27 Section shall be subject to the following limitations:

28 The maximum weekly compensation rate from July 1, 1975,  
29 except as hereinafter provided, shall be 100% of the  
30 State's average weekly wage in covered industries under the  
31 Unemployment Insurance Act, that being the wage that most  
32 closely approximates the State's average weekly wage.

33 The maximum weekly compensation rate, for the period  
34 July 1, 1984, through June 30, 1987, except as hereinafter

1 provided, shall be \$293.61. Effective July 1, 1987 and on  
2 July 1 of each year thereafter the maximum weekly  
3 compensation rate, except as hereinafter provided, shall  
4 be determined as follows: if during the preceding 12 month  
5 period there shall have been an increase in the State's  
6 average weekly wage in covered industries under the  
7 Unemployment Insurance Act, the weekly compensation rate  
8 shall be proportionately increased by the same percentage  
9 as the percentage of increase in the State's average weekly  
10 wage in covered industries under the Unemployment  
11 Insurance Act during such period.

12 The maximum weekly compensation rate, for the period  
13 January 1, 1981 through December 31, 1983, except as  
14 hereinafter provided, shall be 100% of the State's average  
15 weekly wage in covered industries under the Unemployment  
16 Insurance Act in effect on January 1, 1981. Effective  
17 January 1, 1984 and on January 1, of each year thereafter  
18 the maximum weekly compensation rate, except as  
19 hereinafter provided, shall be determined as follows: if  
20 during the preceding 12 month period there shall have been  
21 an increase in the State's average weekly wage in covered  
22 industries under the Unemployment Insurance Act, the  
23 weekly compensation rate shall be proportionately  
24 increased by the same percentage as the percentage of  
25 increase in the State's average weekly wage in covered  
26 industries under the Unemployment Insurance Act during  
27 such period.

28 From July 1, 1977 and thereafter such maximum weekly  
29 compensation rate in death cases under Section 7, and  
30 permanent total disability cases under paragraph (f) or  
31 subparagraph 18 of paragraph (3) of this Section and for  
32 temporary total disability under paragraph (b) of this  
33 Section and for amputation of a member or enucleation of an  
34 eye under paragraph (e) of this Section shall be increased

1 to 133-1/3% of the State's average weekly wage in covered  
2 industries under the Unemployment Insurance Act.

3 For injuries occurring on or after January 1, 2006, the  
4 maximum weekly benefit under paragraph (d)1 of this Section  
5 shall be 110% of the State's average weekly wage in covered  
6 industries under the Unemployment Insurance Act.

7 4.1. Any provision herein to the contrary  
8 notwithstanding, the weekly compensation rate for  
9 compensation payments under subparagraph 18 of paragraph  
10 (e) of this Section and under paragraph (f) of this Section  
11 and under paragraph (a) of Section 7 and for amputation of  
12 a member or enucleation of an eye under paragraph (e) of  
13 this Section, shall in no event be less than 50% of the  
14 State's average weekly wage in covered industries under the  
15 Unemployment Insurance Act.

16 4.2. Any provision to the contrary notwithstanding,  
17 the total compensation payable under Section 7 shall not  
18 exceed the greater of \$250,000 or 20 years.

19 5. For the purpose of this Section this State's average  
20 weekly wage in covered industries under the Unemployment  
21 Insurance Act on July 1, 1975 is hereby fixed at \$228.16  
22 per week and the computation of compensation rates shall be  
23 based on the aforesaid average weekly wage until modified  
24 as hereinafter provided.

25 6. The Department of Employment Security of the State  
26 shall on or before the first day of December, 1977, and on  
27 or before the first day of June, 1978, and on the first day  
28 of each December and June of each year thereafter, publish  
29 the State's average weekly wage in covered industries under  
30 the Unemployment Insurance Act and the Illinois Workers'  
31 Compensation Commission shall on the 15th day of January,  
32 1978 and on the 15th day of July, 1978 and on the 15th day  
33 of each January and July of each year thereafter, post and  
34 publish the State's average weekly wage in covered

1 industries under the Unemployment Insurance Act as last  
2 determined and published by the Department of Employment  
3 Security. The amount when so posted and published shall be  
4 conclusive and shall be applicable as the basis of  
5 computation of compensation rates until the next posting  
6 and publication as aforesaid.

7 7. The payment of compensation by an employer or his  
8 insurance carrier to an injured employee shall not  
9 constitute an admission of the employer's liability to pay  
10 compensation.

11 (c) For any serious and permanent disfigurement to the  
12 hand, head, face, neck, arm, leg below the knee or the chest  
13 above the axillary line, the employee is entitled to  
14 compensation for such disfigurement, the amount determined by  
15 agreement at any time or by arbitration under this Act, at a  
16 hearing not less than 6 months after the date of the accidental  
17 injury, which amount shall not exceed 150 weeks at the  
18 applicable rate provided in subparagraph 2.1 of paragraph (b)  
19 of this Section.

20 No compensation is payable under this paragraph where  
21 compensation is payable under paragraphs (d), (e) or (f) of  
22 this Section.

23 A duly appointed member of a fire department in a city, the  
24 population of which exceeds 200,000 according to the last  
25 federal or State census, is eligible for compensation under  
26 this paragraph only where such serious and permanent  
27 disfigurement results from burns.

28 (d) 1. If, after the accidental injury has been sustained,  
29 the employee as a result thereof becomes partially  
30 incapacitated from pursuing his usual and customary line of  
31 employment, he shall, except in cases compensated under the  
32 specific schedule set forth in paragraph (e) of this Section,  
33 receive compensation for the duration of his disability,  
34 subject to the limitations as to maximum amounts fixed in

1 paragraph (b) of this Section, equal to 66-2/3% of the  
2 difference between the average amount which he would be able to  
3 earn in the full performance of his duties in the occupation in  
4 which he was engaged at the time of the accident and the  
5 average amount which he is earning or is able to earn in some  
6 suitable employment or business after the accident.

7 2. If, as a result of the accident, the employee sustains  
8 serious and permanent injuries not covered by paragraphs (c)  
9 and (e) of this Section or having sustained injuries covered by  
10 the aforesaid paragraphs (c) and (e), he shall have sustained  
11 in addition thereto other injuries which injuries do not  
12 incapacitate him from pursuing the duties of his employment but  
13 which would disable him from pursuing other suitable  
14 occupations, or which have otherwise resulted in physical  
15 impairment; or if such injuries partially incapacitate him from  
16 pursuing the duties of his usual and customary line of  
17 employment but do not result in an impairment of earning  
18 capacity, or having resulted in an impairment of earning  
19 capacity, the employee elects to waive his right to recover  
20 under the foregoing subparagraph 1 of paragraph (d) of this  
21 Section then in any of the foregoing events, he shall receive  
22 in addition to compensation for temporary total disability  
23 under paragraph (b) of this Section, compensation at the rate  
24 provided in subparagraph 2.1 of paragraph (b) of this Section  
25 for that percentage of 500 weeks that the partial disability  
26 resulting from the injuries covered by this paragraph bears to  
27 total disability. If the employee shall have sustained a  
28 fracture of one or more vertebra or fracture of the skull, the  
29 amount of compensation allowed under this Section shall be not  
30 less than 6 weeks for a fractured skull and 6 weeks for each  
31 fractured vertebra, and in the event the employee shall have  
32 sustained a fracture of any of the following facial bones:  
33 nasal, lachrymal, vomer, zygoma, maxilla, palatine or  
34 mandible, the amount of compensation allowed under this Section

1 shall be not less than 2 weeks for each such fractured bone,  
2 and for a fracture of each transverse process not less than 3  
3 weeks. In the event such injuries shall result in the loss of a  
4 kidney, spleen or lung, the amount of compensation allowed  
5 under this Section shall be not less than 10 weeks for each  
6 such organ. Compensation awarded under this subparagraph 2  
7 shall not take into consideration injuries covered under  
8 paragraphs (c) and (e) of this Section and the compensation  
9 provided in this paragraph shall not affect the employee's  
10 right to compensation payable under paragraphs (b), (c) and (e)  
11 of this Section for the disabilities therein covered.

12 (e) For accidental injuries in the following schedule, the  
13 employee shall receive compensation for the period of temporary  
14 total incapacity for work resulting from such accidental  
15 injury, under subparagraph 1 of paragraph (b) of this Section,  
16 and shall receive in addition thereto compensation for a  
17 further period for the specific loss herein mentioned, but  
18 shall not receive any compensation under any other provisions  
19 of this Act. The following listed amounts apply to either the  
20 loss of or the permanent and complete loss of use of the member  
21 specified, such compensation for the length of time as follows:

- 22 1. Thumb-70 weeks.
- 23 2. First, or index finger-40 weeks.
- 24 3. Second, or middle finger-35 weeks.
- 25 4. Third, or ring finger-25 weeks.
- 26 5. Fourth, or little finger-20 weeks.
- 27 6. Great toe-35 weeks.
- 28 7. Each toe other than great toe-12 weeks.
- 29 8. The loss of the first or distal phalanx of the thumb  
30 or of any finger or toe shall be considered to be equal to  
31 the loss of one-half of such thumb, finger or toe and the  
32 compensation payable shall be one-half of the amount above  
33 specified. The loss of more than one phalanx shall be  
34 considered as the loss of the entire thumb, finger or toe.

1 In no case shall the amount received for more than one  
2 finger exceed the amount provided in this schedule for the  
3 loss of a hand.

4 9. Hand-190 weeks. The loss of 2 or more digits, or one  
5 or more phalanges of 2 or more digits, of a hand may be  
6 compensated on the basis of partial loss of use of a hand,  
7 provided, further, that the loss of 4 digits, or the loss  
8 of use of 4 digits, in the same hand shall constitute the  
9 complete loss of a hand.

10 10. Arm-235 weeks. Where an accidental injury results  
11 in the amputation of an arm below the elbow, such injury  
12 shall be compensated as a loss of an arm. Where an  
13 accidental injury results in the amputation of an arm above  
14 the elbow, compensation for an additional 15 weeks shall be  
15 paid, except where the accidental injury results in the  
16 amputation of an arm at the shoulder joint, or so close to  
17 shoulder joint that an artificial arm cannot be used, or  
18 results in the disarticulation of an arm at the shoulder  
19 joint, in which case compensation for an additional 65  
20 weeks shall be paid.

21 11. Foot-155 weeks.

22 12. Leg-200 weeks. Where an accidental injury results  
23 in the amputation of a leg below the knee, such injury  
24 shall be compensated as loss of a leg. Where an accidental  
25 injury results in the amputation of a leg above the knee,  
26 compensation for an additional 25 weeks shall be paid,  
27 except where the accidental injury results in the  
28 amputation of a leg at the hip joint, or so close to the  
29 hip joint that an artificial leg cannot be used, or results  
30 in the disarticulation of a leg at the hip joint, in which  
31 case compensation for an additional 75 weeks shall be paid.

32 13. Eye-150 weeks. Where an accidental injury results  
33 in the enucleation of an eye, compensation for an  
34 additional 10 weeks shall be paid.

1           14. Loss of hearing of one ear-50 weeks; total and  
2 permanent loss of hearing of both ears-200 weeks.

3           15. Testicle-50 weeks; both testicles-150 weeks.

4           16. For the permanent partial loss of use of a member  
5 or sight of an eye, or hearing of an ear, compensation  
6 during that proportion of the number of weeks in the  
7 foregoing schedule provided for the loss of such member or  
8 sight of an eye, or hearing of an ear, which the partial  
9 loss of use thereof bears to the total loss of use of such  
10 member, or sight of eye, or hearing of an ear.

11           (a) Loss of hearing for compensation purposes  
12 shall be confined to the frequencies of 1,000, 2,000  
13 and 3,000 cycles per second. Loss of hearing ability  
14 for frequency tones above 3,000 cycles per second are  
15 not to be considered as constituting disability for  
16 hearing.

17           (b) The percent of hearing loss, for purposes of  
18 the determination of compensation claims for  
19 occupational deafness, shall be calculated as the  
20 average in decibels for the thresholds of hearing for  
21 the frequencies of 1,000, 2,000 and 3,000 cycles per  
22 second. Pure tone air conduction audiometric  
23 instruments, approved by nationally recognized  
24 authorities in this field, shall be used for measuring  
25 hearing loss. If the losses of hearing average 30  
26 decibels or less in the 3 frequencies, such losses of  
27 hearing shall not then constitute any compensable  
28 hearing disability. If the losses of hearing average 85  
29 decibels or more in the 3 frequencies, then the same  
30 shall constitute and be total or 100% compensable  
31 hearing loss.

32           (c) In measuring hearing impairment, the lowest  
33 measured losses in each of the 3 frequencies shall be  
34 added together and divided by 3 to determine the

1 average decibel loss. For every decibel of loss  
 2 exceeding 30 decibels an allowance of 1.82% shall be  
 3 made up to the maximum of 100% which is reached at 85  
 4 decibels.

5 (d) If a hearing loss is established to have  
 6 existed on July 1, 1975 by audiometric testing the  
 7 employer shall not be liable for the previous loss so  
 8 established nor shall he be liable for any loss for  
 9 which compensation has been paid or awarded.

10 (e) No consideration shall be given to the question  
 11 of whether or not the ability of an employee to  
 12 understand speech is improved by the use of a hearing  
 13 aid.

14 (f) No claim for loss of hearing due to industrial  
 15 noise shall be brought against an employer or allowed  
 16 unless the employee has been exposed for a period of  
 17 time sufficient to cause permanent impairment to noise  
 18 levels in excess of the following:

19 Sound Level DBA

20	Slow Response	Hours Per Day
21	90	8
22	92	6
23	95	4
24	97	3
25	100	2
26	102	1-1/2
27	105	1
28	110	1/2
29	115	1/4

30 This subparagraph (f) shall not be applied in cases of  
 31 hearing loss resulting from trauma or explosion.

32 17. In computing the compensation to be paid to any  
 33 employee who, before the accident for which he claims  
 34 compensation, had before that time sustained an injury

1 resulting in the loss by amputation or partial loss by  
2 amputation of any member, including hand, arm, thumb or  
3 fingers, leg, foot or any toes, such loss or partial loss  
4 of any such member shall be deducted from any award made  
5 for the subsequent injury. For the permanent loss of use or  
6 the permanent partial loss of use of any such member or the  
7 partial loss of sight of an eye, for which compensation has  
8 been paid, then such loss shall be taken into consideration  
9 and deducted from any award for the subsequent injury.

10 18. The specific case of loss of both hands, both arms,  
11 or both feet, or both legs, or both eyes, or of any two  
12 thereof, or the permanent and complete loss of the use  
13 thereof, constitutes total and permanent disability, to be  
14 compensated according to the compensation fixed by  
15 paragraph (f) of this Section. These specific cases of  
16 total and permanent disability do not exclude other cases.

17 Any employee who has previously suffered the loss or  
18 permanent and complete loss of the use of any of such  
19 members, and in a subsequent independent accident loses  
20 another or suffers the permanent and complete loss of the  
21 use of any one of such members the employer for whom the  
22 injured employee is working at the time of the last  
23 independent accident is liable to pay compensation only for  
24 the loss or permanent and complete loss of the use of the  
25 member occasioned by the last independent accident.

26 19. In a case of specific loss and the subsequent death  
27 of such injured employee from other causes than such injury  
28 leaving a widow, widower, or dependents surviving before  
29 payment or payment in full for such injury, then the amount  
30 due for such injury is payable to the widow or widower and,  
31 if there be no widow or widower, then to such dependents,  
32 in the proportion which such dependency bears to total  
33 dependency.

34 Beginning July 1, 1980, and every 6 months thereafter, the

1 Commission shall examine the Second Injury Fund and when, after  
2 deducting all advances or loans made to such Fund, the amount  
3 therein is \$500,000 then the amount required to be paid by  
4 employers pursuant to paragraph (f) of Section 7 shall be  
5 reduced by one-half. When the Second Injury Fund reaches the  
6 sum of \$600,000 then the payments shall cease entirely.  
7 However, when the Second Injury Fund has been reduced to  
8 \$400,000, payment of one-half of the amounts required by  
9 paragraph (f) of Section 7 shall be resumed, in the manner  
10 herein provided, and when the Second Injury Fund has been  
11 reduced to \$300,000, payment of the full amounts required by  
12 paragraph (f) of Section 7 shall be resumed, in the manner  
13 herein provided. The Commission shall make the changes in  
14 payment effective by general order, and the changes in payment  
15 become immediately effective for all cases coming before the  
16 Commission thereafter either by settlement agreement or final  
17 order, irrespective of the date of the accidental injury.

18 On August 1, 1996 and on February 1 and August 1 of each  
19 subsequent year, the Commission shall examine the special fund  
20 designated as the "Rate Adjustment Fund" and when, after  
21 deducting all advances or loans made to said fund, the amount  
22 therein is \$4,000,000, the amount required to be paid by  
23 employers pursuant to paragraph (f) of Section 7 shall be  
24 reduced by one-half. When the Rate Adjustment Fund reaches the  
25 sum of \$5,000,000 the payment therein shall cease entirely.  
26 However, when said Rate Adjustment Fund has been reduced to  
27 \$3,000,000 the amounts required by paragraph (f) of Section 7  
28 shall be resumed in the manner herein provided.

29 (f) In case of complete disability, which renders the  
30 employee wholly and permanently incapable of work, or in the  
31 specific case of total and permanent disability as provided in  
32 subparagraph 18 of paragraph (e) of this Section, compensation  
33 shall be payable at the rate provided in subparagraph 2 of  
34 paragraph (b) of this Section for life.

1           An employee entitled to benefits under paragraph (f) of  
2 this Section shall also be entitled to receive from the Rate  
3 Adjustment Fund provided in paragraph (f) of Section 7 of the  
4 supplementary benefits provided in paragraph (g) of this  
5 Section 8.

6           If any employee who receives an award under this paragraph  
7 afterwards returns to work or is able to do so, and earns or is  
8 able to earn as much as before the accident, payments under  
9 such award shall cease. If such employee returns to work, or is  
10 able to do so, and earns or is able to earn part but not as much  
11 as before the accident, such award shall be modified so as to  
12 conform to an award under paragraph (d) of this Section. If  
13 such award is terminated or reduced under the provisions of  
14 this paragraph, such employees have the right at any time  
15 within 30 months after the date of such termination or  
16 reduction to file petition with the Commission for the purpose  
17 of determining whether any disability exists as a result of the  
18 original accidental injury and the extent thereof.

19           Disability as enumerated in subdivision 18, paragraph (e)  
20 of this Section is considered complete disability.

21           If an employee who had previously incurred loss or the  
22 permanent and complete loss of use of one member, through the  
23 loss or the permanent and complete loss of the use of one hand,  
24 one arm, one foot, one leg, or one eye, incurs permanent and  
25 complete disability through the loss or the permanent and  
26 complete loss of the use of another member, he shall receive,  
27 in addition to the compensation payable by the employer and  
28 after such payments have ceased, an amount from the Second  
29 Injury Fund provided for in paragraph (f) of Section 7, which,  
30 together with the compensation payable from the employer in  
31 whose employ he was when the last accidental injury was  
32 incurred, will equal the amount payable for permanent and  
33 complete disability as provided in this paragraph of this  
34 Section.

1           The custodian of the Second Injury Fund provided for in  
2 paragraph (f) of Section 7 shall be joined with the employer as  
3 a party respondent in the application for adjustment of claim.  
4 The application for adjustment of claim shall state briefly and  
5 in general terms the approximate time and place and manner of  
6 the loss of the first member.

7           In its award the Commission or the Arbitrator shall  
8 specifically find the amount the injured employee shall be  
9 weekly paid, the number of weeks compensation which shall be  
10 paid by the employer, the date upon which payments begin out of  
11 the Second Injury Fund provided for in paragraph (f) of Section  
12 7 of this Act, the length of time the weekly payments continue,  
13 the date upon which the pension payments commence and the  
14 monthly amount of the payments. The Commission shall 30 days  
15 after the date upon which payments out of the Second Injury  
16 Fund have begun as provided in the award, and every month  
17 thereafter, prepare and submit to the State Comptroller a  
18 voucher for payment for all compensation accrued to that date  
19 at the rate fixed by the Commission. The State Comptroller  
20 shall draw a warrant to the injured employee along with a  
21 receipt to be executed by the injured employee and returned to  
22 the Commission. The endorsed warrant and receipt is a full and  
23 complete acquittance to the Commission for the payment out of  
24 the Second Injury Fund. No other appropriation or warrant is  
25 necessary for payment out of the Second Injury Fund. The Second  
26 Injury Fund is appropriated for the purpose of making payments  
27 according to the terms of the awards.

28           As of July 1, 1980 to July 1, 1982, all claims against and  
29 obligations of the Second Injury Fund shall become claims  
30 against and obligations of the Rate Adjustment Fund to the  
31 extent there is insufficient money in the Second Injury Fund to  
32 pay such claims and obligations. In that case, all references  
33 to "Second Injury Fund" in this Section shall also include the  
34 Rate Adjustment Fund.

1 (g) Every award for permanent total disability entered by  
2 the Commission on and after July 1, 1965 under which  
3 compensation payments shall become due and payable after the  
4 effective date of this amendatory Act, and every award for  
5 death benefits or permanent total disability entered by the  
6 Commission on and after the effective date of this amendatory  
7 Act shall be subject to annual adjustments as to the amount of  
8 the compensation rate therein provided. Such adjustments shall  
9 first be made on July 15, 1977, and all awards made and entered  
10 prior to July 1, 1975 and on July 15 of each year thereafter.  
11 In all other cases such adjustment shall be made on July 15 of  
12 the second year next following the date of the entry of the  
13 award and shall further be made on July 15 annually thereafter.  
14 If during the intervening period from the date of the entry of  
15 the award, or the last periodic adjustment, there shall have  
16 been an increase in the State's average weekly wage in covered  
17 industries under the Unemployment Insurance Act, the weekly  
18 compensation rate shall be proportionately increased by the  
19 same percentage as the percentage of increase in the State's  
20 average weekly wage in covered industries under the  
21 Unemployment Insurance Act. The increase in the compensation  
22 rate under this paragraph shall in no event bring the total  
23 compensation rate to an amount greater than the prevailing  
24 maximum rate. Such increase shall be paid in the same manner as  
25 herein provided for payments under the Second Injury Fund to  
26 the injured employee, or his dependents, as the case may be,  
27 out of the Rate Adjustment Fund provided in paragraph (f) of  
28 Section 7 of this Act. Payments shall be made at the same  
29 intervals as provided in the award or, at the option of the  
30 Commission, may be made in quarterly payment on the 15th day of  
31 January, April, July and October of each year. In the event of  
32 a decrease in such average weekly wage there shall be no change  
33 in the then existing compensation rate. The within paragraph  
34 shall not apply to cases where there is disputed liability and

1 in which a compromise lump sum settlement between the employer  
2 and the injured employee, or his dependents, as the case may  
3 be, has been duly approved by the Illinois Workers'  
4 Compensation Commission.

5 Provided, that in cases of awards entered by the Commission  
6 for injuries occurring before July 1, 1975, the increases in  
7 the compensation rate adjusted under the foregoing provision of  
8 this paragraph (g) shall be limited to increases in the State's  
9 average weekly wage in covered industries under the  
10 Unemployment Insurance Act occurring after July 1, 1975.

11 (h) In case death occurs from any cause before the total  
12 compensation to which the employee would have been entitled has  
13 been paid, then in case the employee leaves any widow, widower,  
14 child, parent (or any grandchild, grandparent or other lineal  
15 heir or any collateral heir dependent at the time of the  
16 accident upon the earnings of the employee to the extent of 50%  
17 or more of total dependency) such compensation shall be paid to  
18 the beneficiaries of the deceased employee and distributed as  
19 provided in paragraph (g) of Section 7.

20 (h-1) In case an injured employee is under legal disability  
21 at the time when any right or privilege accrues to him or her  
22 under this Act, a guardian may be appointed pursuant to law,  
23 and may, on behalf of such person under legal disability, claim  
24 and exercise any such right or privilege with the same effect  
25 as if the employee himself or herself had claimed or exercised  
26 the right or privilege. No limitations of time provided by this  
27 Act run so long as the employee who is under legal disability  
28 is without a conservator or guardian.

29 (i) In case the injured employee is under 16 years of age  
30 at the time of the accident and is illegally employed, the  
31 amount of compensation payable under paragraphs (b), (c), (d),  
32 (e) and (f) of this Section is increased 50%.

33 However, where an employer has on file an employment  
34 certificate issued pursuant to the Child Labor Law or work

1 permit issued pursuant to the Federal Fair Labor Standards Act,  
2 as amended, or a birth certificate properly and duly issued,  
3 such certificate, permit or birth certificate is conclusive  
4 evidence as to the age of the injured minor employee for the  
5 purposes of this Section.

6 Nothing herein contained repeals or amends the provisions  
7 of the Child Labor Law relating to the employment of minors  
8 under the age of 16 years.

9 (j) 1. In the event the injured employee receives benefits,  
10 including medical, surgical or hospital benefits under any  
11 group plan covering non-occupational disabilities contributed  
12 to wholly or partially by the employer, which benefits should  
13 not have been payable if any rights of recovery existed under  
14 this Act, then such amounts so paid to the employee from any  
15 such group plan as shall be consistent with, and limited to,  
16 the provisions of paragraph 2 hereof, shall be credited to or  
17 against any compensation payment for temporary total  
18 incapacity for work or any medical, surgical or hospital  
19 benefits made or to be made under this Act. In such event, the  
20 period of time for giving notice of accidental injury and  
21 filing application for adjustment of claim does not commence to  
22 run until the termination of such payments. This paragraph does  
23 not apply to payments made under any group plan which would  
24 have been payable irrespective of an accidental injury under  
25 this Act. Any employer receiving such credit shall keep such  
26 employee safe and harmless from any and all claims or  
27 liabilities that may be made against him by reason of having  
28 received such payments only to the extent of such credit.

29 Any excess benefits paid to or on behalf of a State  
30 employee by the State Employees' Retirement System under  
31 Article 14 of the Illinois Pension Code on a death claim or  
32 disputed disability claim shall be credited against any  
33 payments made or to be made by the State of Illinois to or on  
34 behalf of such employee under this Act, except for payments for

1 medical expenses which have already been incurred at the time  
2 of the award. The State of Illinois shall directly reimburse  
3 the State Employees' Retirement System to the extent of such  
4 credit.

5 2. Nothing contained in this Act shall be construed to give  
6 the employer or the insurance carrier the right to credit for  
7 any benefits or payments received by the employee other than  
8 compensation payments provided by this Act, and where the  
9 employee receives payments other than compensation payments,  
10 whether as full or partial salary, group insurance benefits,  
11 bonuses, annuities or any other payments, the employer or  
12 insurance carrier shall receive credit for each such payment  
13 only to the extent of the compensation that would have been  
14 payable during the period covered by such payment.

15 3. The extension of time for the filing of an Application  
16 for Adjustment of Claim as provided in paragraph 1 above shall  
17 not apply to those cases where the time for such filing had  
18 expired prior to the date on which payments or benefits  
19 enumerated herein have been initiated or resumed. Provided  
20 however that this paragraph 3 shall apply only to cases wherein  
21 the payments or benefits hereinabove enumerated shall be  
22 received after July 1, 1969.

23 (Source: P.A. 93-721, eff. 1-1-05.)

24 (820 ILCS 305/8.1 new)

25 Sec. 8.1. Ineligibility for benefits. Any person convicted  
26 of insurance fraud related to workers' compensation shall be  
27 subject to the penalties prescribed in Sections 46-1, 46-2,  
28 46-3, and 46-6 of the Criminal Code of 1961. Any person  
29 convicted of committing insurance fraud related to workers'  
30 compensation pursuant to Section 46-1, 46-2, or 46-3 of the  
31 Criminal Code of 1961 shall be ineligible to receive or retain  
32 any compensation, disability, or medical benefits as defined in  
33 this Act if the compensation, disability, or medical benefits

1 were owed or received as a result of a violation of Section  
2 46-1, 46-2, or 46-3 of the Criminal Code of 1961 for which the  
3 recipient of the compensation, disability, or medical benefit  
4 was convicted.

5 (820 ILCS 305/8.2 new)

6 Sec. 8.2. Fee schedule.

7 (a) Except as provided for in subsection (c), on and after  
8 January 1, 2006, the maximum allowable payment for procedures,  
9 treatments, or services covered under this Act shall be 90% of  
10 the 80th percentile of charges and fees as determined by the  
11 Commission utilizing information provided by employers' and  
12 insurers' national databases, with a minimum of 12,000,000  
13 Illinois line item charges and fees comprised of health care  
14 provider and hospital charges and fees as of July 1, 2004 but  
15 not earlier than July 1, 2002. These charges and fees are  
16 provider billed amounts and shall not include discounted  
17 charges. The 80th percentile is the point on an ordered data  
18 set from low to high such that 80% of the cases are below or  
19 equal to that point and at most 20% are above or equal to that  
20 point. The Commission shall adjust these historical charges and  
21 fees as of July 1, 2004 by the Consumer Price Index-U for the  
22 period July 1, 2004 through August 31, 2005. The Commission  
23 shall establish fee schedules for procedures, treatments, or  
24 services for hospital inpatient, hospital outpatient,  
25 emergency room and trauma, ambulatory surgical treatment  
26 centers, and professional services. These charges and fees  
27 shall be designated by geozip or any smaller geographic unit.  
28 The data shall in no way identify or tend to identify any  
29 patient, employer, or health care provider. As used in this  
30 Section, "geozip" means a three-digit zip code based on data  
31 similarities, geographical similarities, and frequencies. A  
32 geozip does not cross state boundaries. As used in this  
33 Section, "three-digit zip code" means a geographic area in

1 which all zip codes have the same first 3 digits. If a geozip  
2 does not have the necessary number of charges and fees to  
3 calculate a valid percentile for a specific procedure,  
4 treatment, or service, the Commission may combine data from the  
5 geozip with up to 4 other geozips that are demographically and  
6 economically similar and exhibit similarities in data and  
7 frequencies until the Commission reaches 9 charges or fees for  
8 that specific procedure, treatment, or service. In cases where  
9 the compiled data contains less than 9 charges or fees for a  
10 procedure, treatment, or service, reimbursement shall occur at  
11 76% of charges and fees as determined by the Commission in a  
12 manner consistent with the provisions of this paragraph. Not  
13 later than September 30 in 2006 and each year thereafter, the  
14 Commission shall automatically increase or decrease the  
15 maximum allowable payment for a procedure, treatment, or  
16 service established and in effect on January 1 of that year by  
17 the percentage change in the Consumer Price Index-U for the 12  
18 month period ending August 31 of that year. The increase or  
19 decrease shall become effective on January 1 of the following  
20 year. As used in this Section, "Consumer Price Index-U" means  
21 the index published by the Bureau of Labor Statistics of the  
22 U.S. Department of Labor, that measures the average change in  
23 prices of all goods and services purchased by all urban  
24 consumers, U.S. city average, all items, 1982-84=100.

25 (b) Notwithstanding the provisions of subsection (a), if  
26 the Commission finds that there is a significant limitation on  
27 access to quality health care in either a specific field of  
28 health care services or a specific geographic limitation on  
29 access to health care, it may change the Consumer Price Index-U  
30 increase or decrease for that specific field or specific  
31 geographic limitation on access to health care to address that  
32 limitation.

33 (c) The Commission shall establish by rule a process to  
34 review those medical cases or outliers that involve

1 extra-ordinary treatment to determine whether to make an  
2 additional adjustment to the maximum payment within a fee  
3 schedule for a procedure, treatment, or service.

4 (d) When a patient notifies a provider that the treatment,  
5 procedure, or service being sought is for a work-related  
6 illness or injury and furnishes the provider the name and  
7 address of the responsible employer, the provider shall bill  
8 the employer directly. The employer shall make payment and  
9 providers shall submit bills and records in accordance with the  
10 provisions of this Section. All payments to providers for  
11 treatment provided pursuant to this Act shall be made within 60  
12 days of receipt of the bills as long as the claim contains  
13 substantially all the required data elements necessary to  
14 adjudicate the bills. In the case of nonpayment to a provider  
15 within 60 days of receipt of the bill which contained  
16 substantially all of the required data elements necessary to  
17 adjudicate the bill or nonpayment to a provider of a portion of  
18 such a bill up to the lesser of the actual charge or the  
19 payment level set by the Commission in the fee schedule  
20 established in this Section, the bill, or portion of the bill,  
21 shall incur interest at a rate of 1% per month payable to the  
22 provider.

23 (e) Except as provided in subsections (e-5), (e-10), and  
24 (e-15), a provider shall not hold an employee liable for costs  
25 related to a non-disputed procedure, treatment, or service  
26 rendered in connection with a compensable injury. Except as  
27 provided under subsections (e-5), (e-10), (e-15), and (e-20), a  
28 provider shall not bill or otherwise attempt to recover from  
29 the employee the difference between the provider's charge and  
30 the amount paid by the employer or the insurer on a compensable  
31 injury.

32 (e-5) If an employer notifies a provider that the employer  
33 does not consider the illness or injury to be compensable under  
34 this Act, the provider may seek payment of the provider's

1 actual charges from the employee for any procedure, treatment,  
2 or service rendered. Once an employee informs the provider that  
3 there is an application filed with the Commission to resolve a  
4 dispute over payment of such charges, the provider shall cease  
5 any and all efforts to collect payment for the services that  
6 are the subject of the dispute. Any statute of limitations or  
7 statute of repose applicable to the provider's efforts to  
8 collect payment from the employee shall be tolled from the date  
9 that the employee files the application with the Commission  
10 until the date that the provider is permitted to resume  
11 collection efforts under the provisions of this Section.

12 (e-10) If an employer notifies a provider that the employer  
13 will pay only a portion of a bill for any procedure, treatment,  
14 or service rendered in connection with a compensable illness or  
15 disease, the provider may seek payment from the employee for  
16 the remainder of the amount of the bill up to the lesser of the  
17 actual charge or the payment level set by the Commission in the  
18 fee schedule established in this Section. Once an employee  
19 informs the provider that there is an application filed with  
20 the Commission to resolve a dispute over payment of such  
21 charges, the provider shall ceases any and all efforts to  
22 collect payment for the services that are the subject of the  
23 dispute. Any statute of limitations or statute of repose  
24 applicable to the provider's efforts to collect payment from  
25 the employee shall be tolled from the date that the employee  
26 files the application with the Commission until the date that  
27 the provider is permitted to resume collection efforts under  
28 the provisions of this Section.

29 (e-15) When there is a dispute over the compensability of  
30 or amount of payment for a procedure, treatment, or service,  
31 and a case is pending or proceeding before an Arbitrator or the  
32 Commission, the provider may mail the employee reminders that  
33 the employee will be responsible for payment of any procedure,  
34 treatment or service rendered by the provider. The reminders

1 must state that they are not bills, to the extent practicable  
2 include itemized information, and state that the employee need  
3 not pay until such time as the provider is permitted to resume  
4 collection efforts under this Section. The reminders shall not  
5 be provided to any credit rating agency. The reminders may  
6 request that the employee furnish the provider with information  
7 about the proceeding under this Act, such as the file number,  
8 names of parties, and status of the case. If an employee fails  
9 to respond to such request for information or fails to furnish  
10 the information requested within 90 days of the date of the  
11 reminder, the provider is entitled to resume any and all  
12 efforts to collect payment from the employee for the services  
13 rendered to the employee and the employee shall be responsible  
14 for payment of any outstanding bills for a procedure,  
15 treatment, or service rendered by a provider.

16 (e-20) Upon a final award or judgment by an Arbitrator or  
17 the Commission, or a settlement agreed to by the employer and  
18 the employee, a provider may resume any and all efforts to  
19 collect payment from the employee for the services rendered to  
20 the employee and the employee shall be responsible for payment  
21 of any outstanding bills for a procedure, treatment, or service  
22 rendered by a provider as well as the interest awarded under  
23 subsection (d) of this Section. In the case of a procedure,  
24 treatment, or service deemed compensable, the provider shall  
25 not require a payment rate, excluding the interest provisions  
26 under subsection (d), greater than the lesser of the actual  
27 charge or the payment level set by the Commission in the fee  
28 schedule established in this Section. Payment for services  
29 deemed not covered or not compensable under this Act is the  
30 responsibility of the employee unless a provider and employee  
31 have agreed otherwise in writing. Services not covered or not  
32 compensable under this Act are not subject to the fee schedule  
33 in this Section.

34 (f) Nothing in this Act shall prohibit an employer or

1 insurer from contracting with a health care provider or group  
2 of health care providers for reimbursement levels for benefits  
3 under this Act different from those provided in this Section.

4 (g) On or before January 1, 2010 the Commission shall  
5 provide to the Governor and General Assembly a report regarding  
6 the implementation of the medical fee schedule and the index  
7 used for annual adjustment to that schedule as described in  
8 this Section.

9 (820 ILCS 305/8.3 new)

10 Sec. 8.3. Workers' Compensation Medical Fee Advisory  
11 Board. There is created a Workers' Compensation Medical Fee  
12 Advisory Board consisting of 9 members appointed by the  
13 Governor with the advice and consent of the Senate. Three  
14 members of the Advisory Board shall be representative citizens  
15 chosen from the employee class, 3 members shall be  
16 representative citizens chosen from the employing class, and 3  
17 members shall be representative citizens chosen from the  
18 medical provider class. Each member shall serve a 4-year term  
19 and shall continue to serve until a successor is appointed. A  
20 vacancy on the Advisory Board shall be filled by the Governor  
21 for the unexpired term.

22 Members of the Advisory Board shall receive no compensation  
23 for their services but shall be reimbursed for expenses  
24 incurred in the performance of their duties by the Commission  
25 from appropriations made to the Commission for that purpose.

26 The Advisory Board shall advise the Commission on  
27 establishment of fees for medical services and accessibility of  
28 medical treatment.

29 (820 ILCS 305/10) (from Ch. 48, par. 138.10)

30 Sec. 10. The basis for computing the compensation provided  
31 for in Sections 7 and 8 of the Act shall be as follows:

32 The compensation shall be computed on the basis of the

1 "Average weekly wage" which shall mean the actual earnings of  
2 the employee in the employment in which he was working at the  
3 time of the injury during the period of 52 weeks ending with  
4 the last day of the employee's last full pay period immediately  
5 preceding the date of injury, illness or disablement, excluding  
6 extra hourly pay for overtime above the normal hourly wage and  
7 overtime, and bonus, divided by 52; but if the injured employee  
8 lost 5 or more calendar days during such period, whether or not  
9 in the same week, then the earnings for the remainder of such  
10 52 weeks shall be divided by the number of weeks and parts  
11 thereof remaining after the time so lost has been deducted.  
12 Where the employment prior to the injury extended over a period  
13 of less than 52 weeks, the method of dividing the earnings  
14 during that period by the number of weeks and parts thereof  
15 during which the employee actually earned wages shall be  
16 followed. Where by reason of the shortness of the time during  
17 which the employee has been in the employment of his employer  
18 or of the casual nature or terms of the employment, it is  
19 impractical to compute the average weekly wages as above  
20 defined, regard shall be had to the average weekly amount which  
21 during the 52 weeks previous to the injury, illness or  
22 disablement was being or would have been earned by a person in  
23 the same grade employed at the same work for each of such 52  
24 weeks for the same number of hours per week by the same  
25 employer. In the case of volunteer firemen, police and civil  
26 defense members or trainees, the income benefits shall be based  
27 on the average weekly wage in their regular employment. When  
28 the employee is working concurrently with two or more employers  
29 and the respondent employer has knowledge of such employment  
30 prior to the injury, his wages from all such employers shall be  
31 considered as if earned from the employer liable for  
32 compensation.

33 (Source: P.A. 81-1482.)

1 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

2 Sec. 19. Any disputed questions of law or fact shall be  
3 determined as herein provided.

4 (a) It shall be the duty of the Commission upon  
5 notification that the parties have failed to reach an  
6 agreement, to designate an Arbitrator.

7 1. Whenever any claimant misconceives his remedy and  
8 files an application for adjustment of claim under this Act  
9 and it is subsequently discovered, at any time before final  
10 disposition of such cause, that the claim for disability or  
11 death which was the basis for such application should  
12 properly have been made under the Workers' Occupational  
13 Diseases Act, then the provisions of Section 19, paragraph  
14 (a-1) of the Workers' Occupational Diseases Act having  
15 reference to such application shall apply.

16 2. Whenever any claimant misconceives his remedy and  
17 files an application for adjustment of claim under the  
18 Workers' Occupational Diseases Act and it is subsequently  
19 discovered, at any time before final disposition of such  
20 cause that the claim for injury or death which was the  
21 basis for such application should properly have been made  
22 under this Act, then the application so filed under the  
23 Workers' Occupational Diseases Act may be amended in form,  
24 substance or both to assert claim for such disability or  
25 death under this Act and it shall be deemed to have been so  
26 filed as amended on the date of the original filing  
27 thereof, and such compensation may be awarded as is  
28 warranted by the whole evidence pursuant to this Act. When  
29 such amendment is submitted, further or additional  
30 evidence may be heard by the Arbitrator or Commission when  
31 deemed necessary. Nothing in this Section contained shall  
32 be construed to be or permit a waiver of any provisions of  
33 this Act with reference to notice but notice if given shall  
34 be deemed to be a notice under the provisions of this Act

1 if given within the time required herein.

2 (b) The Arbitrator shall make such inquiries and  
3 investigations as he or they shall deem necessary and may  
4 examine and inspect all books, papers, records, places, or  
5 premises relating to the questions in dispute and hear such  
6 proper evidence as the parties may submit.

7 The hearings before the Arbitrator shall be held in the  
8 vicinity where the injury occurred after 10 days' notice of the  
9 time and place of such hearing shall have been given to each of  
10 the parties or their attorneys of record.

11 The Arbitrator may find that the disabling condition is  
12 temporary and has not yet reached a permanent condition and may  
13 order the payment of compensation up to the date of the  
14 hearing, which award shall be reviewable and enforceable in the  
15 same manner as other awards, and in no instance be a bar to a  
16 further hearing and determination of a further amount of  
17 temporary total compensation or of compensation for permanent  
18 disability, but shall be conclusive as to all other questions  
19 except the nature and extent of said disability.

20 The decision of the Arbitrator shall be filed with the  
21 Commission which Commission shall immediately send to each  
22 party or his attorney a copy of such decision, together with a  
23 notification of the time when it was filed. Beginning January  
24 1, 2006 ~~1981~~, all decisions of the Arbitrator shall set forth  
25 in writing findings of fact and conclusions of law, separately  
26 stated, if requested by either party. Unless a petition for  
27 review is filed by either party within 30 days after the  
28 receipt by such party of the copy of the decision and  
29 notification of time when filed, and unless such party  
30 petitioning for a review shall within 35 days after the receipt  
31 by him of the copy of the decision, file with the Commission  
32 either an agreed statement of the facts appearing upon the  
33 hearing before the Arbitrator, or if such party shall so elect  
34 a correct transcript of evidence of the proceedings at such

1 hearings, then the decision shall become the decision of the  
2 Commission and in the absence of fraud shall be conclusive. The  
3 Petition for Review shall contain a statement of the  
4 petitioning party's specific exceptions to the decision of the  
5 arbitrator. The jurisdiction of the Commission to review the  
6 decision of the arbitrator shall not be limited to the  
7 exceptions stated in the Petition for Review. The Commission,  
8 or any member thereof, may grant further time not exceeding 30  
9 days, in which to file such agreed statement or transcript of  
10 evidence. Such agreed statement of facts or correct transcript  
11 of evidence, as the case may be, shall be authenticated by the  
12 signatures of the parties or their attorneys, and in the event  
13 they do not agree as to the correctness of the transcript of  
14 evidence it shall be authenticated by the signature of the  
15 Arbitrator designated by the Commission.

16 Whether the employee is working or not, if the employee is  
17 not receiving or has not received medical, surgical, or  
18 hospital services or other services or compensation as provided  
19 in paragraph (a) of Section 8, or compensation as provided in  
20 paragraph (b) of Section 8, the employee may at any time  
21 petition for an expedited hearing by an Arbitrator on the issue  
22 of whether or not he or she is entitled to receive payment of  
23 the services or compensation. The hearing shall have priority  
24 over all other petitions and shall be heard by the Arbitrator  
25 and Commission with all convenient speed. The employee shall  
26 give notice of a request for an expedited hearing under this  
27 paragraph. A copy of the application for adjustment of claim  
28 shall be attached to the notice. The Commission shall adopt  
29 rules and procedures under which the final decision under this  
30 paragraph is filed not later than 180 days from the date of the  
31 first hearing.

32 (b-1) If the employee is not receiving medical, surgical or  
33 hospital services as provided in paragraph (a) of Section 8 or  
34 compensation as provided in paragraph (b) of Section 8, the

1 employee, in accordance with Commission Rules, may file a  
2 petition for an emergency hearing by an Arbitrator on the issue  
3 of whether or not he is entitled to receive payment of such  
4 compensation or services as provided therein. Such petition  
5 shall have priority over all other petitions and shall be heard  
6 by the Arbitrator and Commission with all convenient speed.

7 Such petition shall contain the following information and  
8 shall be served on the employer at least 15 days before it is  
9 filed:

10 (i) the date and approximate time of accident;

11 (ii) the approximate location of the accident;

12 (iii) a description of the accident;

13 (iv) the nature of the injury incurred by the employee;

14 (v) the identity of the person, if known, to whom the  
15 accident was reported and the date on which it was  
16 reported;

17 (vi) the name and title of the person, if known,  
18 representing the employer with whom the employee conferred  
19 in any effort to obtain compensation pursuant to paragraph  
20 (b) of Section 8 of this Act or medical, surgical or  
21 hospital services pursuant to paragraph (a) of Section 8 of  
22 this Act and the date of such conference;

23 (vii) a statement that the employer has refused to pay  
24 compensation pursuant to paragraph (b) of Section 8 of this  
25 Act or for medical, surgical or hospital services pursuant  
26 to paragraph (a) of Section 8 of this Act;

27 (viii) the name and address, if known, of each witness  
28 to the accident and of each other person upon whom the  
29 employee will rely to support his allegations;

30 (ix) the dates of treatment related to the accident by  
31 medical practitioners, and the names and addresses of such  
32 practitioners, including the dates of treatment related to  
33 the accident at any hospitals and the names and addresses  
34 of such hospitals, and a signed authorization permitting

1 the employer to examine all medical records of all  
2 practitioners and hospitals named pursuant to this  
3 paragraph;

4 (x) a copy of a signed report by a medical  
5 practitioner, relating to the employee's current inability  
6 to return to work because of the injuries incurred as a  
7 result of the accident or such other documents or  
8 affidavits which show that the employee is entitled to  
9 receive compensation pursuant to paragraph (b) of Section 8  
10 of this Act or medical, surgical or hospital services  
11 pursuant to paragraph (a) of Section 8 of this Act. Such  
12 reports, documents or affidavits shall state, if possible,  
13 the history of the accident given by the employee, and  
14 describe the injury and medical diagnosis, the medical  
15 services for such injury which the employee has received  
16 and is receiving, the physical activities which the  
17 employee cannot currently perform as a result of any  
18 impairment or disability due to such injury, and the  
19 prognosis for recovery;

20 (xi) complete copies of any reports, records,  
21 documents and affidavits in the possession of the employee  
22 on which the employee will rely to support his allegations,  
23 provided that the employer shall pay the reasonable cost of  
24 reproduction thereof;

25 (xii) a list of any reports, records, documents and  
26 affidavits which the employee has demanded by subpoena and  
27 on which he intends to rely to support his allegations;

28 (xiii) a certification signed by the employee or his  
29 representative that the employer has received the petition  
30 with the required information 15 days before filing.

31 Fifteen days after receipt by the employer of the petition  
32 with the required information the employee may file said  
33 petition and required information and shall serve notice of the  
34 filing upon the employer. The employer may file a motion

1 addressed to the sufficiency of the petition. If an objection  
2 has been filed to the sufficiency of the petition, the  
3 arbitrator shall rule on the objection within 2 working days.  
4 If such an objection is filed, the time for filing the final  
5 decision of the Commission as provided in this paragraph shall  
6 be tolled until the arbitrator has determined that the petition  
7 is sufficient.

8 The employer shall, within 15 days after receipt of the  
9 notice that such petition is filed, file with the Commission  
10 and serve on the employee or his representative a written  
11 response to each claim set forth in the petition, including the  
12 legal and factual basis for each disputed allegation and the  
13 following information: (i) complete copies of any reports,  
14 records, documents and affidavits in the possession of the  
15 employer on which the employer intends to rely in support of  
16 his response, (ii) a list of any reports, records, documents  
17 and affidavits which the employer has demanded by subpoena and  
18 on which the employer intends to rely in support of his  
19 response, (iii) the name and address of each witness on whom  
20 the employer will rely to support his response, and (iv) the  
21 names and addresses of any medical practitioners selected by  
22 the employer pursuant to Section 12 of this Act and the time  
23 and place of any examination scheduled to be made pursuant to  
24 such Section.

25 Any employer who does not timely file and serve a written  
26 response without good cause may not introduce any evidence to  
27 dispute any claim of the employee but may cross examine the  
28 employee or any witness brought by the employee and otherwise  
29 be heard.

30 No document or other evidence not previously identified by  
31 either party with the petition or written response, or by any  
32 other means before the hearing, may be introduced into evidence  
33 without good cause. If, at the hearing, material information is  
34 discovered which was not previously disclosed, the Arbitrator

1 may extend the time for closing proof on the motion of a party  
2 for a reasonable period of time which may be more than 30 days.  
3 No evidence may be introduced pursuant to this paragraph as to  
4 permanent disability. No award may be entered for permanent  
5 disability pursuant to this paragraph. Either party may  
6 introduce into evidence the testimony taken by deposition of  
7 any medical practitioner.

8 The Commission shall adopt rules, regulations and  
9 procedures whereby the final decision of the Commission is  
10 filed not later than 90 days from the date the petition for  
11 review is filed but in no event later than 180 days from the  
12 date the petition for an emergency hearing is filed with the  
13 Illinois Workers' Compensation Commission.

14 All service required pursuant to this paragraph (b-1) must  
15 be by personal service or by certified mail and with evidence  
16 of receipt. In addition for the purposes of this paragraph, all  
17 service on the employer must be at the premises where the  
18 accident occurred if the premises are owned or operated by the  
19 employer. Otherwise service must be at the employee's principal  
20 place of employment by the employer. If service on the employer  
21 is not possible at either of the above, then service shall be  
22 at the employer's principal place of business. After initial  
23 service in each case, service shall be made on the employer's  
24 attorney or designated representative.

25 (c) (1) At a reasonable time in advance of and in  
26 connection with the hearing under Section 19(e) or 19(h), the  
27 Commission may on its own motion order an impartial physical or  
28 mental examination of a petitioner whose mental or physical  
29 condition is in issue, when in the Commission's discretion it  
30 appears that such an examination will materially aid in the  
31 just determination of the case. The examination shall be made  
32 by a member or members of a panel of physicians chosen for  
33 their special qualifications by the Illinois State Medical  
34 Society. The Commission shall establish procedures by which a

1 physician shall be selected from such list.

2 (2) Should the Commission at any time during the hearing  
3 find that compelling considerations make it advisable to have  
4 an examination and report at that time, the commission may in  
5 its discretion so order.

6 (3) A copy of the report of examination shall be given to  
7 the Commission and to the attorneys for the parties.

8 (4) Either party or the Commission may call the examining  
9 physician or physicians to testify. Any physician so called  
10 shall be subject to cross-examination.

11 (5) The examination shall be made, and the physician or  
12 physicians, if called, shall testify, without cost to the  
13 parties. The Commission shall determine the compensation and  
14 the pay of the physician or physicians. The compensation for  
15 this service shall not exceed the usual and customary amount  
16 for such service.

17 (6) The fees and payment thereof of all attorneys and  
18 physicians for services authorized by the Commission under this  
19 Act shall, upon request of either the employer or the employee  
20 or the beneficiary affected, be subject to the review and  
21 decision of the Commission.

22 (d) If any employee shall persist in insanitary or  
23 injurious practices which tend to either imperil or retard his  
24 recovery or shall refuse to submit to such medical, surgical,  
25 or hospital treatment as is reasonably essential to promote his  
26 recovery, the Commission may, in its discretion, reduce or  
27 suspend the compensation of any such injured employee. However,  
28 when an employer and employee so agree in writing, the  
29 foregoing provision shall not be construed to authorize the  
30 reduction or suspension of compensation of an employee who is  
31 relying in good faith, on treatment by prayer or spiritual  
32 means alone, in accordance with the tenets and practice of a  
33 recognized church or religious denomination, by a duly  
34 accredited practitioner thereof.

1 (e) This paragraph shall apply to all hearings before the  
2 Commission. Such hearings may be held in its office or  
3 elsewhere as the Commission may deem advisable. The taking of  
4 testimony on such hearings may be had before any member of the  
5 Commission. If a petition for review and agreed statement of  
6 facts or transcript of evidence is filed, as provided herein,  
7 the Commission shall promptly review the decision of the  
8 Arbitrator and all questions of law or fact which appear from  
9 the statement of facts or transcript of evidence.

10 In all cases in which the hearing before the arbitrator is  
11 held after December 18, 1989, no additional evidence shall be  
12 introduced by the parties before the Commission on review of  
13 the decision of the Arbitrator. In reviewing decisions of an  
14 arbitrator the Commission shall award such temporary  
15 compensation, permanent compensation and other payments as are  
16 due under this Act. The Commission shall file in its office its  
17 decision thereon, and shall immediately send to each party or  
18 his attorney a copy of such decision and a notification of the  
19 time when it was filed. Decisions shall be filed within 60 days  
20 after the Statement of Exceptions and Supporting Brief and  
21 Response thereto are required to be filed or oral argument  
22 whichever is later.

23 In the event either party requests oral argument, such  
24 argument shall be had before a panel of 3 members of the  
25 Commission (or before all available members pursuant to the  
26 determination of 5 members of the Commission that such argument  
27 be held before all available members of the Commission)  
28 pursuant to the rules and regulations of the Commission. A  
29 panel of 3 members, which shall be comprised of not more than  
30 one representative citizen of the employing class and not more  
31 than one representative citizen of the employee class, shall  
32 hear the argument; provided that if all the issues in dispute  
33 are solely the nature and extent of the permanent partial  
34 disability, if any, a majority of the panel may deny the

1 request for such argument and such argument shall not be held;  
2 and provided further that 5 members of the Commission may  
3 determine that the argument be held before all available  
4 members of the Commission. A decision of the Commission shall  
5 be approved by a majority of Commissioners present at such  
6 hearing if any; provided, if no such hearing is held, a  
7 decision of the Commission shall be approved by a majority of a  
8 panel of 3 members of the Commission as described in this  
9 Section. The Commission shall give 10 days' notice to the  
10 parties or their attorneys of the time and place of such taking  
11 of testimony and of such argument.

12 In any case the Commission in its decision may find  
13 specially upon any question or questions of law or fact which  
14 shall be submitted in writing by either party whether ultimate  
15 or otherwise; provided that on issues other than nature and  
16 extent of the disability, if any, the Commission in its  
17 decision shall find specially upon any question or questions of  
18 law or fact, whether ultimate or otherwise, which are submitted  
19 in writing by either party; provided further that not more than  
20 5 such questions may be submitted by either party. Any party  
21 may, within 20 days after receipt of notice of the Commission's  
22 decision, or within such further time, not exceeding 30 days,  
23 as the Commission may grant, file with the Commission either an  
24 agreed statement of the facts appearing upon the hearing, or,  
25 if such party shall so elect, a correct transcript of evidence  
26 of the additional proceedings presented before the Commission,  
27 in which report the party may embody a correct statement of  
28 such other proceedings in the case as such party may desire to  
29 have reviewed, such statement of facts or transcript of  
30 evidence to be authenticated by the signature of the parties or  
31 their attorneys, and in the event that they do not agree, then  
32 the authentication of such transcript of evidence shall be by  
33 the signature of any member of the Commission.

34 If a reporter does not for any reason furnish a transcript

1 of the proceedings before the Arbitrator in any case for use on  
2 a hearing for review before the Commission, within the  
3 limitations of time as fixed in this Section, the Commission  
4 may, in its discretion, order a trial de novo before the  
5 Commission in such case upon application of either party. The  
6 applications for adjustment of claim and other documents in the  
7 nature of pleadings filed by either party, together with the  
8 decisions of the Arbitrator and of the Commission and the  
9 statement of facts or transcript of evidence hereinbefore  
10 provided for in paragraphs (b) and (c) shall be the record of  
11 the proceedings of the Commission, and shall be subject to  
12 review as hereinafter provided.

13 At the request of either party or on its own motion, the  
14 Commission shall set forth in writing the reasons for the  
15 decision, including findings of fact and conclusions of law  
16 separately stated. The Commission shall by rule adopt a format  
17 for written decisions for the Commission and arbitrators. The  
18 written decisions shall be concise and shall succinctly state  
19 the facts and reasons for the decision. The Commission may  
20 adopt in whole or in part, the decision of the arbitrator as  
21 the decision of the Commission. When the Commission does so  
22 adopt the decision of the arbitrator, it shall do so by order.  
23 Whenever the Commission adopts part of the arbitrator's  
24 decision, but not all, it shall include in the order the  
25 reasons for not adopting all of the arbitrator's decision. When  
26 a majority of a panel, after deliberation, has arrived at its  
27 decision, the decision shall be filed as provided in this  
28 Section without unnecessary delay, and without regard to the  
29 fact that a member of the panel has expressed an intention to  
30 dissent. Any member of the panel may file a dissent. Any  
31 dissent shall be filed no later than 10 days after the decision  
32 of the majority has been filed.

33 Decisions rendered by the Commission and dissents, if any,  
34 shall be published together by the Commission. The conclusions

1 of law set out in such decisions shall be regarded as  
2 precedents by arbitrators for the purpose of achieving a more  
3 uniform administration of this Act.

4 (f) The decision of the Commission acting within its  
5 powers, according to the provisions of paragraph (e) of this  
6 Section shall, in the absence of fraud, be conclusive unless  
7 reviewed as in this paragraph hereinafter provided. However,  
8 the Arbitrator or the Commission may on his or its own motion,  
9 or on the motion of either party, correct any clerical error or  
10 errors in computation within 15 days after the date of receipt  
11 of any award by such Arbitrator or any decision on review of  
12 the Commission and shall have the power to recall the original  
13 award on arbitration or decision on review, and issue in lieu  
14 thereof such corrected award or decision. Where such correction  
15 is made the time for review herein specified shall begin to run  
16 from the date of the receipt of the corrected award or  
17 decision.

18 (1) Except in cases of claims against the State of  
19 Illinois, in which case the decision of the Commission  
20 shall not be subject to judicial review, the Circuit Court  
21 of the county where any of the parties defendant may be  
22 found, or if none of the parties defendant can be found in  
23 this State then the Circuit Court of the county where the  
24 accident occurred, shall by summons to the Commission have  
25 power to review all questions of law and fact presented by  
26 such record.

27 A proceeding for review shall be commenced within 20  
28 days of the receipt of notice of the decision of the  
29 Commission. The summons shall be issued by the clerk of  
30 such court upon written request returnable on a designated  
31 return day, not less than 10 or more than 60 days from the  
32 date of issuance thereof, and the written request shall  
33 contain the last known address of other parties in interest  
34 and their attorneys of record who are to be served by

1 summons. Service upon any member of the Commission or the  
2 Secretary or the Assistant Secretary thereof shall be  
3 service upon the Commission, and service upon other parties  
4 in interest and their attorneys of record shall be by  
5 summons, and such service shall be made upon the Commission  
6 and other parties in interest by mailing notices of the  
7 commencement of the proceedings and the return day of the  
8 summons to the office of the Commission and to the last  
9 known place of residence of other parties in interest or  
10 their attorney or attorneys of record. The clerk of the  
11 court issuing the summons shall on the day of issue mail  
12 notice of the commencement of the proceedings which shall  
13 be done by mailing a copy of the summons to the office of  
14 the Commission, and a copy of the summons to the other  
15 parties in interest or their attorney or attorneys of  
16 record and the clerk of the court shall make certificate  
17 that he has so sent said notices in pursuance of this  
18 Section, which shall be evidence of service on the  
19 Commission and other parties in interest.

20 The Commission shall not be required to certify the  
21 record of their proceedings to the Circuit Court, unless  
22 the party commencing the proceedings for review in the  
23 Circuit Court as above provided, shall pay to the  
24 Commission the sum of 80¢ per page of testimony taken  
25 before the Commission, and 35¢ per page of all other  
26 matters contained in such record, except as otherwise  
27 provided by Section 20 of this Act. Payment for photostatic  
28 copies of exhibit shall be extra. It shall be the duty of  
29 the Commission upon such payment, or failure to pay as  
30 permitted under Section 20 of this Act, to prepare a true  
31 and correct typewritten copy of such testimony and a true  
32 and correct copy of all other matters contained in such  
33 record and certified to by the Secretary or Assistant  
34 Secretary thereof.

1           In its decision on review the Commission shall  
2 determine in each particular case the amount of the  
3 probable cost of the record to be filed as a part of the  
4 summons in that case and no request for a summons may be  
5 filed and no summons shall issue unless the party seeking  
6 to review the decision of the Commission shall exhibit to  
7 the clerk of the Circuit Court proof of payment by filing a  
8 receipt showing payment or an affidavit of the attorney  
9 setting forth that payment has been made of the sums so  
10 determined to the Secretary or Assistant Secretary of the  
11 Commission, except as otherwise provided by Section 20 of  
12 this Act.

13           (2) No such summons shall issue unless the one against  
14 whom the Commission shall have rendered an award for the  
15 payment of money shall upon the filing of his written  
16 request for such summons file with the clerk of the court a  
17 bond conditioned that if he shall not successfully  
18 prosecute the review, he will pay the award and the costs  
19 of the proceedings in the courts. The amount of the bond  
20 shall be fixed by any member of the Commission and the  
21 surety or sureties of the bond shall be approved by the  
22 clerk of the court. The acceptance of the bond by the clerk  
23 of the court shall constitute evidence of his approval of  
24 the bond.

25           Every county, city, town, township, incorporated  
26 village, school district, body politic or municipal  
27 corporation against whom the Commission shall have  
28 rendered an award for the payment of money shall not be  
29 required to file a bond to secure the payment of the award  
30 and the costs of the proceedings in the court to authorize  
31 the court to issue such summons.

32           The court may confirm or set aside the decision of the  
33 Commission. If the decision is set aside and the facts  
34 found in the proceedings before the Commission are

1 sufficient, the court may enter such decision as is  
2 justified by law, or may remand the cause to the Commission  
3 for further proceedings and may state the questions  
4 requiring further hearing, and give such other  
5 instructions as may be proper. Appeals shall be taken to  
6 the Appellate Court in accordance with Supreme Court Rules  
7 22(g) and 303. Appeals shall be taken from the Appellate  
8 Court to the Supreme Court in accordance with Supreme Court  
9 Rule 315.

10 It shall be the duty of the clerk of any court  
11 rendering a decision affecting or affirming an award of the  
12 Commission to promptly furnish the Commission with a copy  
13 of such decision, without charge.

14 The decision of a majority of the members of the panel  
15 of the Commission, shall be considered the decision of the  
16 Commission.

17 (g) Except in the case of a claim against the State of  
18 Illinois, either party may present a certified copy of the  
19 award of the Arbitrator, or a certified copy of the decision of  
20 the Commission when the same has become final, when no  
21 proceedings for review are pending, providing for the payment  
22 of compensation according to this Act, to the Circuit Court of  
23 the county in which such accident occurred or either of the  
24 parties are residents, whereupon the court shall enter a  
25 judgment in accordance therewith. In a case where the employer  
26 refuses to pay compensation according to such final award or  
27 such final decision upon which such judgment is entered the  
28 court shall in entering judgment thereon, tax as costs against  
29 him the reasonable costs and attorney fees in the arbitration  
30 proceedings and in the court entering the judgment for the  
31 person in whose favor the judgment is entered, which judgment  
32 and costs taxed as therein provided shall, until and unless set  
33 aside, have the same effect as though duly entered in an action  
34 duly tried and determined by the court, and shall with like

1 effect, be entered and docketed. The Circuit Court shall have  
2 power at any time upon application to make any such judgment  
3 conform to any modification required by any subsequent decision  
4 of the Supreme Court upon appeal, or as the result of any  
5 subsequent proceedings for review, as provided in this Act.

6 Judgment shall not be entered until 15 days' notice of the  
7 time and place of the application for the entry of judgment  
8 shall be served upon the employer by filing such notice with  
9 the Commission, which Commission shall, in case it has on file  
10 the address of the employer or the name and address of its  
11 agent upon whom notices may be served, immediately send a copy  
12 of the notice to the employer or such designated agent.

13 (h) An agreement or award under this Act providing for  
14 compensation in installments, may at any time within 18 months  
15 after such agreement or award be reviewed by the Commission at  
16 the request of either the employer or the employee, on the  
17 ground that the disability of the employee has subsequently  
18 recurred, increased, diminished or ended.

19 However, as to accidents occurring subsequent to July 1,  
20 1955, which are covered by any agreement or award under this  
21 Act providing for compensation in installments made as a result  
22 of such accident, such agreement or award may at any time  
23 within 30 months after such agreement or award be reviewed by  
24 the Commission at the request of either the employer or the  
25 employee on the ground that the disability of the employee has  
26 subsequently recurred, increased, diminished or ended.

27 On such review, compensation payments may be  
28 re-established, increased, diminished or ended. The Commission  
29 shall give 15 days' notice to the parties of the hearing for  
30 review. Any employee, upon any petition for such review being  
31 filed by the employer, shall be entitled to one day's notice  
32 for each 100 miles necessary to be traveled by him in attending  
33 the hearing of the Commission upon the petition, and 3 days in  
34 addition thereto. Such employee shall, at the discretion of the

1 Commission, also be entitled to 5 cents per mile necessarily  
2 traveled by him within the State of Illinois in attending such  
3 hearing, not to exceed a distance of 300 miles, to be taxed by  
4 the Commission as costs and deposited with the petition of the  
5 employer.

6 When compensation which is payable in accordance with an  
7 award or settlement contract approved by the Commission, is  
8 ordered paid in a lump sum by the Commission, no review shall  
9 be had as in this paragraph mentioned.

10 (i) Each party, upon taking any proceedings or steps  
11 whatsoever before any Arbitrator, Commission or court, shall  
12 file with the Commission his address, or the name and address  
13 of any agent upon whom all notices to be given to such party  
14 shall be served, either personally or by registered mail,  
15 addressed to such party or agent at the last address so filed  
16 with the Commission. In the event such party has not filed his  
17 address, or the name and address of an agent as above provided,  
18 service of any notice may be had by filing such notice with the  
19 Commission.

20 (j) Whenever in any proceeding testimony has been taken or  
21 a final decision has been rendered and after the taking of such  
22 testimony or after such decision has become final, the injured  
23 employee dies, then in any subsequent proceedings brought by  
24 the personal representative or beneficiaries of the deceased  
25 employee, such testimony in the former proceeding may be  
26 introduced with the same force and effect as though the witness  
27 having so testified were present in person in such subsequent  
28 proceedings and such final decision, if any, shall be taken as  
29 final adjudication of any of the issues which are the same in  
30 both proceedings.

31 (k) In case where there has been any unreasonable or  
32 vexatious delay of payment or intentional underpayment of  
33 compensation, or proceedings have been instituted or carried on  
34 by the one liable to pay the compensation, which do not present

1 a real controversy, but are merely frivolous or for delay, then  
2 the Commission may award compensation additional to that  
3 otherwise payable under this Act equal to 50% of the amount  
4 payable at the time of such award. Failure to pay compensation  
5 in accordance with the provisions of Section 8, paragraph (b)  
6 of this Act, shall be considered unreasonable delay. When  
7 determining whether this subsection (k) shall apply, the  
8 Commission shall consider whether an arbitrator has determined  
9 that the claim is not compensable or whether the employer has  
10 made payments under Section 8(j).

11 (1) If the employee has made written demand for payment of  
12 benefits under Section 8(a) or Section 8(b), the employer shall  
13 have 14 days after receipt of the demand to set forth in  
14 writing the reason for the delay. In the case of demand for  
15 payment of medical benefits under Section 8(a), the time for  
16 the employer to respond shall not commence until the expiration  
17 of the allotted 60 days specified under Section 8.2(d). In case  
18 the employer or his insurance carrier shall without good and  
19 just cause fail, neglect, refuse, or unreasonably delay the  
20 payment of benefits under Section 8(a) or Section 8(b), the  
21 Arbitrator or the Commission shall allow to the employee  
22 additional compensation in the sum of \$30 per day for each day  
23 that the benefits under Section 8(a) or Section 8(b) have been  
24 so withheld or refused not to exceed \$10,000 as well as the  
25 costs of litigation. A delay in payment of 14 days or more  
26 shall create a rebuttable presumption of unreasonable delay. ~~In~~  
27 ~~case the employer or his insurance carrier shall without good~~  
28 ~~and just cause fail, neglect, refuse or unreasonably delay the~~  
29 ~~payment of weekly compensation benefits due to an injured~~  
30 ~~employee during the period of temporary total disability the~~  
31 ~~arbitrator or the Commission shall allow to the employee~~  
32 ~~additional compensation in the sum of \$10 per day for each day~~  
33 ~~that a weekly compensation payment has been so withheld or~~  
34 ~~refused, provided that such additional compensation shall not~~

1 ~~exceed the sum of \$2,500. A delay in payment of 14 days or more~~  
2 ~~shall create a rebuttable presumption of unreasonable delay.~~

3 (m) If the commission finds that an accidental injury was  
4 directly and proximately caused by the employer's wilful  
5 violation of a health and safety standard under the Health and  
6 Safety Act in force at the time of the accident, the arbitrator  
7 or the Commission shall allow to the injured employee or his  
8 dependents, as the case may be, additional compensation equal  
9 to 25% of the amount which otherwise would be payable under the  
10 provisions of this Act exclusive of this paragraph. The  
11 additional compensation herein provided shall be allowed by an  
12 appropriate increase in the applicable weekly compensation  
13 rate.

14 (n) After June 30, 1984, decisions of the Illinois Workers'  
15 Compensation Commission reviewing an award of an arbitrator of  
16 the Commission shall draw interest at a rate equal to the yield  
17 on indebtedness issued by the United States Government with a  
18 26-week maturity next previously auctioned on the day on which  
19 the decision is filed. Said rate of interest shall be set forth  
20 in the Arbitrator's Decision. Interest shall be drawn from the  
21 date of the arbitrator's award on all accrued compensation due  
22 the employee through the day prior to the date of payments.  
23 However, when an employee appeals an award of an Arbitrator or  
24 the Commission, and the appeal results in no change or a  
25 decrease in the award, interest shall not further accrue from  
26 the date of such appeal.

27 The employer or his insurance carrier may tender the  
28 payments due under the award to stop the further accrual of  
29 interest on such award notwithstanding the prosecution by  
30 either party of review, certiorari, appeal to the Supreme Court  
31 or other steps to reverse, vacate or modify the award.

32 (o) By the 15th day of each month each insurer providing  
33 coverage for losses under this Act shall notify each insured  
34 employer of any compensable claim incurred during the preceding

1 month and the amounts paid or reserved on the claim including a  
2 summary of the claim and a brief statement of the reasons for  
3 compensability. A cumulative report of all claims incurred  
4 during a calendar year or continued from the previous year  
5 shall be furnished to the insured employer by the insurer  
6 within 30 days after the end of that calendar year.

7 The insured employer may challenge, in proceeding before  
8 the Commission, payments made by the insurer without  
9 arbitration and payments made after a case is determined to be  
10 noncompensable. If the Commission finds that the case was not  
11 compensable, the insurer shall purge its records as to that  
12 employer of any loss or expense associated with the claim,  
13 reimburse the employer for attorneys' fees arising from the  
14 challenge and for any payment required of the employer to the  
15 Rate Adjustment Fund or the Second Injury Fund, and may not  
16 reflect the loss or expense for rate making purposes. The  
17 employee shall not be required to refund the challenged  
18 payment. The decision of the Commission may be reviewed in the  
19 same manner as in arbitrated cases. No challenge may be  
20 initiated under this paragraph more than 3 years after the  
21 payment is made. An employer may waive the right of challenge  
22 under this paragraph on a case by case basis.

23 (p) After filing an application for adjustment of claim but  
24 prior to the hearing on arbitration the parties may voluntarily  
25 agree to submit such application for adjustment of claim for  
26 decision by an arbitrator under this subsection (p) where such  
27 application for adjustment of claim raises only a dispute over  
28 temporary total disability, permanent partial disability or  
29 medical expenses. Such agreement shall be in writing in such  
30 form as provided by the Commission. Applications for adjustment  
31 of claim submitted for decision by an arbitrator under this  
32 subsection (p) shall proceed according to rule as established  
33 by the Commission. The Commission shall promulgate rules  
34 including, but not limited to, rules to ensure that the parties

1 are adequately informed of their rights under this subsection  
2 (p) and of the voluntary nature of proceedings under this  
3 subsection (p). The findings of fact made by an arbitrator  
4 acting within his or her powers under this subsection (p) in  
5 the absence of fraud shall be conclusive. However, the  
6 arbitrator may on his own motion, or the motion of either  
7 party, correct any clerical errors or errors in computation  
8 within 15 days after the date of receipt of such award of the  
9 arbitrator and shall have the power to recall the original  
10 award on arbitration, and issue in lieu thereof such corrected  
11 award. The decision of the arbitrator under this subsection (p)  
12 shall be considered the decision of the Commission and  
13 proceedings for review of questions of law arising from the  
14 decision may be commenced by either party pursuant to  
15 subsection (f) of Section 19. The Advisory Board established  
16 under Section 13.1 shall compile a list of certified Commission  
17 arbitrators, each of whom shall be approved by at least 7  
18 members of the Advisory Board. The chairman shall select 5  
19 persons from such list to serve as arbitrators under this  
20 subsection (p). By agreement, the parties shall select one  
21 arbitrator from among the 5 persons selected by the chairman  
22 except that if the parties do not agree on an arbitrator from  
23 among the 5 persons, the parties may, by agreement, select an  
24 arbitrator of the American Arbitration Association, whose fee  
25 shall be paid by the State in accordance with rules promulgated  
26 by the Commission. Arbitration under this subsection (p) shall  
27 be voluntary.

28 (Source: P.A. 93-721, eff. 1-1-05.)

29 Section 10. The Workers' Occupational Diseases Act is  
30 amended by adding Section 8.1 and changing Section 19 as  
31 follows:

32 (820 ILCS 310/8.1 new)

1       Sec. 8.1. Ineligibility for benefits. Any person convicted  
2 of insurance fraud related to compensation for an occupational  
3 disease shall be subject to the penalties prescribed in  
4 Sections 46-1, 46-2, 46-3, and 46-6 of the Criminal Code of  
5 1961. Any person convicted of committing insurance fraud  
6 related to compensation for an occupational disease pursuant to  
7 Section 46-1, 46-2, or 46-3 of the Criminal Code of 1961 shall  
8 be ineligible to receive or retain any compensation,  
9 disability, or medical benefits as defined in this Act if the  
10 compensation, disability, or medical benefits were owed or  
11 received as a result of a violation of Section 46-1, 46-2, or  
12 46-3 of the Criminal Code of 1961 for which the recipient of  
13 the compensation, disability, or medical benefit was  
14 convicted.

15       (820 ILCS 310/19) (from Ch. 48, par. 172.54)

16       Sec. 19. Any disputed questions of law or fact shall be  
17 determined as herein provided.

18       (a) It shall be the duty of the Commission upon  
19 notification that the parties have failed to reach an agreement  
20 to designate an Arbitrator.

21             (1) The application for adjustment of claim filed with  
22 the Commission shall state:

23               A. The approximate date of the last day of the last  
24 exposure and the approximate date of the disablement.

25               B. The general nature and character of the illness  
26 or disease claimed.

27               C. The name and address of the employer by whom  
28 employed on the last day of the last exposure and if  
29 employed by any other employer after such last exposure  
30 and before disablement the name and address of such  
31 other employer or employers.

32               D. In case of death, the date and place of death.

33             (2) Amendments to applications for adjustment of claim

1       which relate to the same disablement or disablement  
2       resulting in death originally claimed upon may be allowed  
3       by the Commissioner or an Arbitrator thereof, in their  
4       discretion, and in the exercise of such discretion, they  
5       may in proper cases order a trial de novo; such amendment  
6       shall relate back to the date of the filing of the original  
7       application so amended.

8       (3) Whenever any claimant misconceives his remedy and  
9       files an application for adjustment of claim under this Act  
10      and it is subsequently discovered, at any time before final  
11      disposition of such cause, that the claim for disability or  
12      death which was the basis for such application should  
13      properly have been made under the Workers' Compensation  
14      Act, then the provisions of Section 19 paragraph (a-1) of  
15      the Workers' Compensation Act having reference to such  
16      application shall apply.

17      Whenever any claimant misconceives his remedy and  
18      files an application for adjustment of claim under the  
19      Workers' Compensation Act and it is subsequently  
20      discovered, at any time before final disposition of such  
21      cause that the claim for injury or death which was the  
22      basis for such application should properly have been made  
23      under this Act, then the application so filed under the  
24      Workers' Compensation Act may be amended in form, substance  
25      or both to assert claim for such disability or death under  
26      this Act and it shall be deemed to have been so filed as  
27      amended on the date of the original filing thereof, and  
28      such compensation may be awarded as is warranted by the  
29      whole evidence pursuant to the provisions of this Act. When  
30      such amendment is submitted, further or additional  
31      evidence may be heard by the Arbitrator or Commission when  
32      deemed necessary; provided, that nothing in this Section  
33      contained shall be construed to be or permit a waiver of  
34      any provisions of this Act with reference to notice, but

1 notice if given shall be deemed to be a notice under the  
2 provisions of this Act if given within the time required  
3 herein.

4 (b) The Arbitrator shall make such inquiries and  
5 investigations as he shall deem necessary and may examine and  
6 inspect all books, papers, records, places, or premises  
7 relating to the questions in dispute and hear such proper  
8 evidence as the parties may submit.

9 The hearings before the Arbitrator shall be held in the  
10 vicinity where the last exposure occurred, after 10 days'  
11 notice of the time and place of such hearing shall have been  
12 given to each of the parties or their attorneys of record.

13 The Arbitrator may find that the disabling condition is  
14 temporary and has not yet reached a permanent condition and may  
15 order the payment of compensation up to the date of the  
16 hearing, which award shall be reviewable and enforceable in the  
17 same manner as other awards, and in no instance be a bar to a  
18 further hearing and determination of a further amount of  
19 temporary total compensation or of compensation for permanent  
20 disability, but shall be conclusive as to all other questions  
21 except the nature and extent of such disability.

22 The decision of the Arbitrator shall be filed with the  
23 Commission which Commission shall immediately send to each  
24 party or his attorney a copy of such decision, together with a  
25 notification of the time when it was filed. Beginning January  
26 1, 2006 ~~1981~~, all decisions of the Arbitrator shall set forth  
27 in writing findings of fact and conclusions of law, separately  
28 stated, if requested by either party. Unless a petition for  
29 review is filed by either party within 30 days after the  
30 receipt by such party of the copy of the decision and  
31 notification of time when filed, and unless such party  
32 petitioning for a review shall within 35 days after the receipt  
33 by him of the copy of the decision, file with the Commission  
34 either an agreed statement of the facts appearing upon the

1 hearing before the Arbitrator, or if such party shall so elect  
2 a correct transcript of evidence of the proceedings at such  
3 hearings, then the decision shall become the decision of the  
4 Commission and in the absence of fraud shall be conclusive. The  
5 Petition for Review shall contain a statement of the  
6 petitioning party's specific exceptions to the decision of the  
7 arbitrator. The jurisdiction of the Commission to review the  
8 decision of the arbitrator shall not be limited to the  
9 exceptions stated in the Petition for Review. The Commission,  
10 or any member thereof, may grant further time not exceeding 30  
11 days, in which to file such agreed statement or transcript of  
12 evidence. Such agreed statement of facts or correct transcript  
13 of evidence, as the case may be, shall be authenticated by the  
14 signatures of the parties or their attorneys, and in the event  
15 they do not agree as to the correctness of the transcript of  
16 evidence it shall be authenticated by the signature of the  
17 Arbitrator designated by the Commission.

18 Whether the employee is working or not, if the employee is  
19 not receiving or has not received medical, surgical, or  
20 hospital services or other services or compensation as provided  
21 in paragraph (a) of Section 8 of the Workers' Compensation Act,  
22 or compensation as provided in paragraph (b) of Section 8 of  
23 the Workers' Compensation Act, the employee may at any time  
24 petition for an expedited hearing by an Arbitrator on the issue  
25 of whether or not he or she is entitled to receive payment of  
26 the services or compensation. The hearing shall have priority  
27 over all other petitions and shall be heard by the Arbitrator  
28 and Commission with all convenient speed. The employee shall  
29 give notice of a request for an expedited hearing under this  
30 paragraph. A copy of the application for adjustment of claim  
31 shall be attached to the notice. The Commission shall adopt  
32 rules and procedures under which the final decision under this  
33 paragraph is filed not later than 180 days from the date of the  
34 first hearing.

1 (b-1) If the employee is not receiving, pursuant to Section  
2 7, medical, surgical or hospital services of the type provided  
3 for in paragraph (a) of Section 8 of the Workers' Compensation  
4 Act or compensation of the type provided for in paragraph (b)  
5 of Section 8 of the Workers' Compensation Act, the employee, in  
6 accordance with Commission Rules, may file a petition for an  
7 emergency hearing by an Arbitrator on the issue of whether or  
8 not he is entitled to receive payment of such compensation or  
9 services as provided therein. Such petition shall have priority  
10 over all other petitions and shall be heard by the Arbitrator  
11 and Commission with all convenient speed.

12 Such petition shall contain the following information and  
13 shall be served on the employer at least 15 days before it is  
14 filed:

15 (i) the date and approximate time of the last exposure;

16 (ii) the approximate location of the last exposure;

17 (iii) a description of the last exposure;

18 (iv) the nature of the disability incurred by the  
19 employee;

20 (v) the identity of the person, if known, to whom the  
21 disability was reported and the date on which it was  
22 reported;

23 (vi) the name and title of the person, if known,  
24 representing the employer with whom the employee conferred  
25 in any effort to obtain pursuant to Section 7 compensation  
26 of the type provided for in paragraph (b) of Section 8 of  
27 the Workers' Compensation Act or medical, surgical or  
28 hospital services of the type provided for in paragraph (a)  
29 of Section 8 of the Workers' Compensation Act and the date  
30 of such conference;

31 (vii) a statement that the employer has refused to pay  
32 compensation pursuant to Section 7 of the type provided for  
33 in paragraph (b) of Section 8 of the Workers' Compensation  
34 Act or for medical, surgical or hospital services pursuant

1 to Section 7 of the type provided for in paragraph (a) of  
2 Section 8 of the Workers' Compensation Act;

3 (viii) the name and address, if known, of each witness  
4 to the last exposure and of each other person upon whom the  
5 employee will rely to support his allegations;

6 (ix) the dates of treatment related to the disability  
7 by medical practitioners, and the names and addresses of  
8 such practitioners, including the dates of treatment  
9 related to the disability at any hospitals and the names  
10 and addresses of such hospitals, and a signed authorization  
11 permitting the employer to examine all medical records of  
12 all practitioners and hospitals named pursuant to this  
13 paragraph;

14 (x) a copy of a signed report by a medical  
15 practitioner, relating to the employee's current inability  
16 to return to work because of the disability incurred as a  
17 result of the exposure or such other documents or  
18 affidavits which show that the employee is entitled to  
19 receive pursuant to Section 7 compensation of the type  
20 provided for in paragraph (b) of Section 8 of the Workers'  
21 Compensation Act or medical, surgical or hospital services  
22 of the type provided for in paragraph (a) of Section 8 of  
23 the Workers' Compensation Act. Such reports, documents or  
24 affidavits shall state, if possible, the history of the  
25 exposure given by the employee, and describe the disability  
26 and medical diagnosis, the medical services for such  
27 disability which the employee has received and is  
28 receiving, the physical activities which the employee  
29 cannot currently perform as a result of such disability,  
30 and the prognosis for recovery;

31 (xi) complete copies of any reports, records,  
32 documents and affidavits in the possession of the employee  
33 on which the employee will rely to support his allegations,  
34 provided that the employer shall pay the reasonable cost of

1 reproduction thereof;

2 (xii) a list of any reports, records, documents and  
3 affidavits which the employee has demanded by subpoena and  
4 on which he intends to rely to support his allegations;

5 (xiii) a certification signed by the employee or his  
6 representative that the employer has received the petition  
7 with the required information 15 days before filing.

8 Fifteen days after receipt by the employer of the petition  
9 with the required information the employee may file said  
10 petition and required information and shall serve notice of the  
11 filing upon the employer. The employer may file a motion  
12 addressed to the sufficiency of the petition. If an objection  
13 has been filed to the sufficiency of the petition, the  
14 arbitrator shall rule on the objection within 2 working days.  
15 If such an objection is filed, the time for filing the final  
16 decision of the Commission as provided in this paragraph shall  
17 be tolled until the arbitrator has determined that the petition  
18 is sufficient.

19 The employer shall, within 15 days after receipt of the  
20 notice that such petition is filed, file with the Commission  
21 and serve on the employee or his representative a written  
22 response to each claim set forth in the petition, including the  
23 legal and factual basis for each disputed allegation and the  
24 following information: (i) complete copies of any reports,  
25 records, documents and affidavits in the possession of the  
26 employer on which the employer intends to rely in support of  
27 his response, (ii) a list of any reports, records, documents  
28 and affidavits which the employer has demanded by subpoena and  
29 on which the employer intends to rely in support of his  
30 response, (iii) the name and address of each witness on whom  
31 the employer will rely to support his response, and (iv) the  
32 names and addresses of any medical practitioners selected by  
33 the employer pursuant to Section 12 of this Act and the time  
34 and place of any examination scheduled to be made pursuant to

1 such Section.

2 Any employer who does not timely file and serve a written  
3 response without good cause may not introduce any evidence to  
4 dispute any claim of the employee but may cross examine the  
5 employee or any witness brought by the employee and otherwise  
6 be heard.

7 No document or other evidence not previously identified by  
8 either party with the petition or written response, or by any  
9 other means before the hearing, may be introduced into evidence  
10 without good cause. If, at the hearing, material information is  
11 discovered which was not previously disclosed, the Arbitrator  
12 may extend the time for closing proof on the motion of a party  
13 for a reasonable period of time which may be more than 30 days.  
14 No evidence may be introduced pursuant to this paragraph as to  
15 permanent disability. No award may be entered for permanent  
16 disability pursuant to this paragraph. Either party may  
17 introduce into evidence the testimony taken by deposition of  
18 any medical practitioner.

19 The Commission shall adopt rules, regulations and  
20 procedures whereby the final decision of the Commission is  
21 filed not later than 90 days from the date the petition for  
22 review is filed but in no event later than 180 days from the  
23 date the petition for an emergency hearing is filed with the  
24 Illinois Workers' Compensation Commission.

25 All service required pursuant to this paragraph (b-1) must  
26 be by personal service or by certified mail and with evidence  
27 of receipt. In addition, for the purposes of this paragraph,  
28 all service on the employer must be at the premises where the  
29 accident occurred if the premises are owned or operated by the  
30 employer. Otherwise service must be at the employee's principal  
31 place of employment by the employer. If service on the employer  
32 is not possible at either of the above, then service shall be  
33 at the employer's principal place of business. After initial  
34 service in each case, service shall be made on the employer's

1 attorney or designated representative.

2 (c) (1) At a reasonable time in advance of and in  
3 connection with the hearing under Section 19(e) or 19(h), the  
4 Commission may on its own motion order an impartial physical or  
5 mental examination of a petitioner whose mental or physical  
6 condition is in issue, when in the Commission's discretion it  
7 appears that such an examination will materially aid in the  
8 just determination of the case. The examination shall be made  
9 by a member or members of a panel of physicians chosen for  
10 their special qualifications by the Illinois State Medical  
11 Society. The Commission shall establish procedures by which a  
12 physician shall be selected from such list.

13 (2) Should the Commission at any time during the hearing  
14 find that compelling considerations make it advisable to have  
15 an examination and report at that time, the Commission may in  
16 its discretion so order.

17 (3) A copy of the report of examination shall be given to  
18 the Commission and to the attorneys for the parties.

19 (4) Either party or the Commission may call the examining  
20 physician or physicians to testify. Any physician so called  
21 shall be subject to cross-examination.

22 (5) The examination shall be made, and the physician or  
23 physicians, if called, shall testify, without cost to the  
24 parties. The Commission shall determine the compensation and  
25 the pay of the physician or physicians. The compensation for  
26 this service shall not exceed the usual and customary amount  
27 for such service.

28 The fees and payment thereof of all attorneys and  
29 physicians for services authorized by the Commission under this  
30 Act shall, upon request of either the employer or the employee  
31 or the beneficiary affected, be subject to the review and  
32 decision of the Commission.

33 (d) If any employee shall persist in insanitary or  
34 injurious practices which tend to either imperil or retard his

1 recovery or shall refuse to submit to such medical, surgical,  
2 or hospital treatment as is reasonably essential to promote his  
3 recovery, the Commission may, in its discretion, reduce or  
4 suspend the compensation of any such employee; provided, that  
5 when an employer and employee so agree in writing, the  
6 foregoing provision shall not be construed to authorize the  
7 reduction or suspension of compensation of an employee who is  
8 relying in good faith, on treatment by prayer or spiritual  
9 means alone, in accordance with the tenets and practice of a  
10 recognized church or religious denomination, by a duly  
11 accredited practitioner thereof.

12 (e) This paragraph shall apply to all hearings before the  
13 Commission. Such hearings may be held in its office or  
14 elsewhere as the Commission may deem advisable. The taking of  
15 testimony on such hearings may be had before any member of the  
16 Commission. If a petition for review and agreed statement of  
17 facts or transcript of evidence is filed, as provided herein,  
18 the Commission shall promptly review the decision of the  
19 Arbitrator and all questions of law or fact which appear from  
20 the statement of facts or transcripts of evidence. In all cases  
21 in which the hearing before the arbitrator is held after the  
22 effective date of this amendatory Act of 1989, no additional  
23 evidence shall be introduced by the parties before the  
24 Commission on review of the decision of the Arbitrator. The  
25 Commission shall file in its office its decision thereon, and  
26 shall immediately send to each party or his attorney a copy of  
27 such decision and a notification of the time when it was filed.  
28 Decisions shall be filed within 60 days after the Statement of  
29 Exceptions and Supporting Brief and Response thereto are  
30 required to be filed or oral argument whichever is later.

31 In the event either party requests oral argument, such  
32 argument shall be had before a panel of 3 members of the  
33 Commission (or before all available members pursuant to the  
34 determination of 5 members of the Commission that such argument

1 be held before all available members of the Commission)  
2 pursuant to the rules and regulations of the Commission. A  
3 panel of 3 members, which shall be comprised of not more than  
4 one representative citizen of the employing class and not more  
5 than one representative citizen of the employee class, shall  
6 hear the argument; provided that if all the issues in dispute  
7 are solely the nature and extent of the permanent partial  
8 disability, if any, a majority of the panel may deny the  
9 request for such argument and such argument shall not be held;  
10 and provided further that 5 members of the Commission may  
11 determine that the argument be held before all available  
12 members of the Commission. A decision of the Commission shall  
13 be approved by a majority of Commissioners present at such  
14 hearing if any; provided, if no such hearing is held, a  
15 decision of the Commission shall be approved by a majority of a  
16 panel of 3 members of the Commission as described in this  
17 Section. The Commission shall give 10 days' notice to the  
18 parties or their attorneys of the time and place of such taking  
19 of testimony and of such argument.

20 In any case the Commission in its decision may in its  
21 discretion find specially upon any question or questions of law  
22 or facts which shall be submitted in writing by either party  
23 whether ultimate or otherwise; provided that on issues other  
24 than nature and extent of the disablement, if any, the  
25 Commission in its decision shall find specially upon any  
26 question or questions of law or fact, whether ultimate or  
27 otherwise, which are submitted in writing by either party;  
28 provided further that not more than 5 such questions may be  
29 submitted by either party. Any party may, within 20 days after  
30 receipt of notice of the Commission's decision, or within such  
31 further time, not exceeding 30 days, as the Commission may  
32 grant, file with the Commission either an agreed statement of  
33 the facts appearing upon the hearing, or, if such party shall  
34 so elect, a correct transcript of evidence of the additional

1 proceedings presented before the Commission in which report the  
2 party may embody a correct statement of such other proceedings  
3 in the case as such party may desire to have reviewed, such  
4 statement of facts or transcript of evidence to be  
5 authenticated by the signature of the parties or their  
6 attorneys, and in the event that they do not agree, then the  
7 authentication of such transcript of evidence shall be by the  
8 signature of any member of the Commission.

9 If a reporter does not for any reason furnish a transcript  
10 of the proceedings before the Arbitrator in any case for use on  
11 a hearing for review before the Commission, within the  
12 limitations of time as fixed in this Section, the Commission  
13 may, in its discretion, order a trial de novo before the  
14 Commission in such case upon application of either party. The  
15 applications for adjustment of claim and other documents in the  
16 nature of pleadings filed by either party, together with the  
17 decisions of the Arbitrator and of the Commission and the  
18 statement of facts or transcript of evidence hereinbefore  
19 provided for in paragraphs (b) and (c) shall be the record of  
20 the proceedings of the Commission, and shall be subject to  
21 review as hereinafter provided.

22 At the request of either party or on its own motion, the  
23 Commission shall set forth in writing the reasons for the  
24 decision, including findings of fact and conclusions of law,  
25 separately stated. The Commission shall by rule adopt a format  
26 for written decisions for the Commission and arbitrators. The  
27 written decisions shall be concise and shall succinctly state  
28 the facts and reasons for the decision. The Commission may  
29 adopt in whole or in part, the decision of the arbitrator as  
30 the decision of the Commission. When the Commission does so  
31 adopt the decision of the arbitrator, it shall do so by order.  
32 Whenever the Commission adopts part of the arbitrator's  
33 decision, but not all, it shall include in the order the  
34 reasons for not adopting all of the arbitrator's decision. When

1 a majority of a panel, after deliberation, has arrived at its  
2 decision, the decision shall be filed as provided in this  
3 Section without unnecessary delay, and without regard to the  
4 fact that a member of the panel has expressed an intention to  
5 dissent. Any member of the panel may file a dissent. Any  
6 dissent shall be filed no later than 10 days after the decision  
7 of the majority has been filed.

8 Decisions rendered by the Commission after the effective  
9 date of this amendatory Act of 1980 and dissents, if any, shall  
10 be published together by the Commission. The conclusions of law  
11 set out in such decisions shall be regarded as precedents by  
12 arbitrators, for the purpose of achieving a more uniform  
13 administration of this Act.

14 (f) The decision of the Commission acting within its  
15 powers, according to the provisions of paragraph (e) of this  
16 Section shall, in the absence of fraud, be conclusive unless  
17 reviewed as in this paragraph hereinafter provided. However,  
18 the Arbitrator or the Commission may on his or its own motion,  
19 or on the motion of either party, correct any clerical error or  
20 errors in computation within 15 days after the date of receipt  
21 of any award by such Arbitrator or any decision on review of  
22 the Commission, and shall have the power to recall the original  
23 award on arbitration or decision on review, and issue in lieu  
24 thereof such corrected award or decision. Where such correction  
25 is made the time for review herein specified shall begin to run  
26 from the date of the receipt of the corrected award or  
27 decision.

28 (1) Except in cases of claims against the State of  
29 Illinois, in which case the decision of the Commission  
30 shall not be subject to judicial review, the Circuit Court  
31 of the county where any of the parties defendant may be  
32 found, or if none of the parties defendant be found in this  
33 State then the Circuit Court of the county where any of the  
34 exposure occurred, shall by summons to the Commission have

1 power to review all questions of law and fact presented by  
2 such record.

3 A proceeding for review shall be commenced within 20  
4 days of the receipt of notice of the decision of the  
5 Commission. The summons shall be issued by the clerk of  
6 such court upon written request returnable on a designated  
7 return day, not less than 10 or more than 60 days from the  
8 date of issuance thereof, and the written request shall  
9 contain the last known address of other parties in interest  
10 and their attorneys of record who are to be served by  
11 summons. Service upon any member of the Commission or the  
12 Secretary or the Assistant Secretary thereof shall be  
13 service upon the Commission, and service upon other parties  
14 in interest and their attorneys of record shall be by  
15 summons, and such service shall be made upon the Commission  
16 and other parties in interest by mailing notices of the  
17 commencement of the proceedings and the return day of the  
18 summons to the office of the Commission and to the last  
19 known place of residence of other parties in interest or  
20 their attorney or attorneys of record. The clerk of the  
21 court issuing the summons shall on the day of issue mail  
22 notice of the commencement of the proceedings which shall  
23 be done by mailing a copy of the summons to the office of  
24 the Commission, and a copy of the summons to the other  
25 parties in interest or their attorney or attorneys of  
26 record and the clerk of the court shall make certificate  
27 that he has so sent such notices in pursuance of this  
28 Section, which shall be evidence of service on the  
29 Commission and other parties in interest.

30 The Commission shall not be required to certify the  
31 record of their proceedings in the Circuit Court unless the  
32 party commencing the proceedings for review in the Circuit  
33 Court as above provided, shall pay to the Commission the  
34 sum of 80 cents per page of testimony taken before the

1 Commission, and 35 cents per page of all other matters  
2 contained in such record, except as otherwise provided by  
3 Section 20 of this Act. Payment for photostatic copies of  
4 exhibit shall be extra. It shall be the duty of the  
5 Commission upon such payment, or failure to pay as  
6 permitted under Section 20 of this Act, to prepare a true  
7 and correct typewritten copy of such testimony and a true  
8 and correct copy of all other matters contained in such  
9 record and certified to by the Secretary or Assistant  
10 Secretary thereof.

11 In its decision on review the Commission shall  
12 determine in each particular case the amount of the  
13 probable cost of the record to be filed as a return to the  
14 summons in that case and no request for a summons may be  
15 filed and no summons shall issue unless the party seeking  
16 to review the decision of the Commission shall exhibit to  
17 the clerk of the Circuit Court proof of payment by filing a  
18 receipt showing payment or an affidavit of the attorney  
19 setting forth that payment has been made of the sums so  
20 determined to the Secretary or Assistant Secretary of the  
21 Commission.

22 (2) No such summons shall issue unless the one against  
23 whom the Commission shall have rendered an award for the  
24 payment of money shall upon the filing of his written  
25 request for such summons file with the clerk of the court a  
26 bond conditioned that if he shall not successfully  
27 prosecute the review, he will pay the award and the costs  
28 of the proceedings in the court. The amount of the bond  
29 shall be fixed by any member of the Commission and the  
30 surety or sureties of the bond shall be approved by the  
31 clerk of the court. The acceptance of the bond by the clerk  
32 of the court shall constitute evidence of his approval of  
33 the bond.

34 Every county, city, town, township, incorporated

1 village, school district, body politic or municipal  
2 corporation having a population of 500,000 or more against  
3 whom the Commission shall have rendered an award for the  
4 payment of money shall not be required to file a bond to  
5 secure the payment of the award and the costs of the  
6 proceedings in the court to authorize the court to issue  
7 such summons.

8 The court may confirm or set aside the decision of the  
9 Commission. If the decision is set aside and the facts  
10 found in the proceedings before the Commission are  
11 sufficient, the court may enter such decision as is  
12 justified by law, or may remand the cause to the Commission  
13 for further proceedings and may state the questions  
14 requiring further hearing, and give such other  
15 instructions as may be proper. Appeals shall be taken to  
16 the Appellate Court in accordance with Supreme Court Rules  
17 22(g) and 303. Appeals shall be taken from the Appellate  
18 Court to the Supreme Court in accordance with Supreme Court  
19 Rule 315.

20 It shall be the duty of the clerk of any court  
21 rendering a decision affecting or affirming an award of the  
22 Commission to promptly furnish the Commission with a copy  
23 of such decision, without charge.

24 The decision of a majority of the members of the panel  
25 of the Commission, shall be considered the decision of the  
26 Commission.

27 (g) Except in the case of a claim against the State of  
28 Illinois, either party may present a certified copy of the  
29 award of the Arbitrator, or a certified copy of the decision of  
30 the Commission when the same has become final, when no  
31 proceedings for review are pending, providing for the payment  
32 of compensation according to this Act, to the Circuit Court of  
33 the county in which such exposure occurred or either of the  
34 parties are residents, whereupon the court shall enter a

1 judgment in accordance therewith. In case where the employer  
2 refuses to pay compensation according to such final award or  
3 such final decision upon which such judgment is entered, the  
4 court shall in entering judgment thereon, tax as costs against  
5 him the reasonable costs and attorney fees in the arbitration  
6 proceedings and in the court entering the judgment for the  
7 person in whose favor the judgment is entered, which judgment  
8 and costs taxed as herein provided shall, until and unless set  
9 aside, have the same effect as though duly entered in an action  
10 duly tried and determined by the court, and shall with like  
11 effect, be entered and docketed. The Circuit Court shall have  
12 power at any time upon application to make any such judgment  
13 conform to any modification required by any subsequent decision  
14 of the Supreme Court upon appeal, or as the result of any  
15 subsequent proceedings for review, as provided in this Act.

16 Judgment shall not be entered until 15 days' notice of the  
17 time and place of the application for the entry of judgment  
18 shall be served upon the employer by filing such notice with  
19 the Commission, which Commission shall, in case it has on file  
20 the address of the employer or the name and address of its  
21 agent upon whom notices may be served, immediately send a copy  
22 of the notice to the employer or such designated agent.

23 (h) An agreement or award under this Act providing for  
24 compensation in installments, may at any time within 18 months  
25 after such agreement or award be reviewed by the Commission at  
26 the request of either the employer or the employee on the  
27 ground that the disability of the employee has subsequently  
28 recurred, increased, diminished or ended.

29 However, as to disablements occurring subsequently to July  
30 1, 1955, which are covered by any agreement or award under this  
31 Act providing for compensation in installments made as a result  
32 of such disablement, such agreement or award may at any time  
33 within 30 months after such agreement or award be reviewed by  
34 the Commission at the request of either the employer or the

1 employee on the ground that the disability of the employee has  
2 subsequently recurred, increased, diminished or ended.

3 On such review compensation payments may be  
4 re-established, increased, diminished or ended. The Commission  
5 shall give 15 days' notice to the parties of the hearing for  
6 review. Any employee, upon any petition for such review being  
7 filed by the employer, shall be entitled to one day's notice  
8 for each 100 miles necessary to be traveled by him in attending  
9 the hearing of the Commission upon the petition, and 3 days in  
10 addition thereto. Such employee shall, at the discretion of the  
11 Commission, also be entitled to 5 cents per mile necessarily  
12 traveled by him within the State of Illinois in attending such  
13 hearing, not to exceed a distance of 300 miles, to be taxed by  
14 the Commission as costs and deposited with the petition of the  
15 employer.

16 When compensation which is payable in accordance with an  
17 award or settlement contract approved by the Commission, is  
18 ordered paid in a lump sum by the Commission, no review shall  
19 be had as in this paragraph mentioned.

20 (i) Each party, upon taking any proceedings or steps  
21 whatsoever before any Arbitrator, Commission or court, shall  
22 file with the Commission his address, or the name and address  
23 of any agent upon whom all notices to be given to such party  
24 shall be served, either personally or by registered mail,  
25 addressed to such party or agent at the last address so filed  
26 with the Commission. In the event such party has not filed his  
27 address, or the name and address of an agent as above provided,  
28 service of any notice may be had by filing such notice with the  
29 Commission.

30 (j) Whenever in any proceeding testimony has been taken or  
31 a final decision has been rendered, and after the taking of  
32 such testimony or after such decision has become final, the  
33 employee dies, then in any subsequent proceeding brought by the  
34 personal representative or beneficiaries of the deceased

1 employee, such testimony in the former proceeding may be  
2 introduced with the same force and effect as though the witness  
3 having so testified were present in person in such subsequent  
4 proceedings and such final decision, if any, shall be taken as  
5 final adjudication of any of the issues which are the same in  
6 both proceedings.

7 (k) In any case where there has been any unreasonable or  
8 vexatious delay of payment or intentional underpayment of  
9 compensation, or proceedings have been instituted or carried on  
10 by one liable to pay the compensation, which do not present a  
11 real controversy, but are merely frivolous or for delay, then  
12 the Commission may award compensation additional to that  
13 otherwise payable under this Act equal to 50% of the amount  
14 payable at the time of such award. Failure to pay compensation  
15 in accordance with the provisions of Section 8, paragraph (b)  
16 of this Act, shall be considered unreasonable delay. When  
17 determining whether this subsection (k) shall apply, the  
18 Commission shall consider whether an arbitrator has determined  
19 that the claim is not compensable or whether the employer has  
20 made payments under Section 8(j) of the Workers' Compensation  
21 Act.

22 (k-1) If the employee has made written demand for payment  
23 of benefits under Section 8(a) or Section 8(b) of the Workers'  
24 Compensation Act, the employer shall have 14 days after receipt  
25 of the demand to set forth in writing the reason for the delay.  
26 In the case of demand for payment of medical benefits under  
27 Section 8(a) of the Workers' Compensation Act, the time for the  
28 employer to respond shall not commence until the expiration of  
29 the allotted 60 days specified under Section 8.2(d) of the  
30 Workers' Compensation Act. In case the employer or his  
31 insurance carrier shall without good and just cause fail,  
32 neglect, refuse, or unreasonably delay the payment of benefits  
33 under Section 8(a) or Section 8(b) of the Workers' Compensation  
34 Act, the Arbitrator or the Commission shall allow to the

1 employee additional compensation in the sum of \$30 per day for  
2 each day that the benefits under Section 8(a) or Section 8(b)  
3 of the Workers' Compensation Act have been so withheld or  
4 refused not to exceed \$10,000 as well as the costs of  
5 litigation. A delay in payment of 14 days or more shall create  
6 a rebuttable presumption of unreasonable delay.

7 (1) By the 15th day of each month each insurer providing  
8 coverage for losses under this Act shall notify each insured  
9 employer of any compensable claim incurred during the preceding  
10 month and the amounts paid or reserved on the claim including a  
11 summary of the claim and a brief statement of the reasons for  
12 compensability. A cumulative report of all claims incurred  
13 during a calendar year or continued from the previous year  
14 shall be furnished to the insured employer by the insurer  
15 within 30 days after the end of that calendar year.

16 The insured employer may challenge, in proceeding before  
17 the Commission, payments made by the insurer without  
18 arbitration and payments made after a case is determined to be  
19 noncompensable. If the Commission finds that the case was not  
20 compensable, the insurer shall purge its records as to that  
21 employer of any loss or expense associated with the claim,  
22 reimburse the employer for attorneys fee arising from the  
23 challenge and for any payment required of the employer to the  
24 Rate Adjustment Fund or the Second Injury Fund, and may not  
25 effect the loss or expense for rate making purposes. The  
26 employee shall not be required to refund the challenged  
27 payment. The decision of the Commission may be reviewed in the  
28 same manner as in arbitrated cases. No challenge may be  
29 initiated under this paragraph more than 3 years after the  
30 payment is made. An employer may waive the right of challenge  
31 under this paragraph on a case by case basis.

32 (m) After filing an application for adjustment of claim but  
33 prior to the hearing on arbitration the parties may voluntarily  
34 agree to submit such application for adjustment of claim for

1 decision by an arbitrator under this subsection (m) where such  
2 application for adjustment of claim raises only a dispute over  
3 temporary total disability, permanent partial disability or  
4 medical expenses. Such agreement shall be in writing in such  
5 form as provided by the Commission. Applications for adjustment  
6 of claim submitted for decision by an arbitrator under this  
7 subsection (m) shall proceed according to rule as established  
8 by the Commission. The Commission shall promulgate rules  
9 including, but not limited to, rules to ensure that the parties  
10 are adequately informed of their rights under this subsection  
11 (m) and of the voluntary nature of proceedings under this  
12 subsection (m). The findings of fact made by an arbitrator  
13 acting within his or her powers under this subsection (m) in  
14 the absence of fraud shall be conclusive. However, the  
15 arbitrator may on his own motion, or the motion of either  
16 party, correct any clerical errors or errors in computation  
17 within 15 days after the date of receipt of such award of the  
18 arbitrator and shall have the power to recall the original  
19 award on arbitration, and issue in lieu thereof such corrected  
20 award. The decision of the arbitrator under this subsection (m)  
21 shall be considered the decision of the Commission and  
22 proceedings for review of questions of law arising from the  
23 decision may be commenced by either party pursuant to  
24 subsection (f) of Section 19. The Advisory Board established  
25 under Section 13.1 of the Workers' Compensation Act shall  
26 compile a list of certified Commission arbitrators, each of  
27 whom shall be approved by at least 7 members of the Advisory  
28 Board. The chairman shall select 5 persons from such list to  
29 serve as arbitrators under this subsection (m). By agreement,  
30 the parties shall select one arbitrator from among the 5  
31 persons selected by the chairman except, that if the parties do  
32 not agree on an arbitrator from among the 5 persons, the  
33 parties may, by agreement, select an arbitrator of the American  
34 Arbitration Association, whose fee shall be paid by the State

1 in accordance with rules promulgated by the Commission.  
2 Arbitration under this subsection (m) shall be voluntary.  
3 (Source: P.A. 93-721, eff. 1-1-05.)

4 Section 95. Applicability. The amendatory changes to  
5 subsections (a) and (b) of Section 8, Section 10, and  
6 subsection (l) of Section 19 of the Workers' Compensation Act  
7 and subsection (k-1) of Section 19 of the Workers' Occupational  
8 Diseases Act apply to accidental injuries or diseases that  
9 occur on or after January 1, 2006.

10 Section 98. Inseverability. The provisions of this Act are  
11 mutually dependent and inseverable. If any provision or its  
12 application to any person or circumstance is held invalid, then  
13 this entire Act is invalid.

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.".